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HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1998 Regular Session

Volume IV

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1998,
and in the Two Hundred and Sixth
Year of the Commonwealth

Begun on Tuesday, the Sixth Day of January, 1998, and Adjourned
Sine Die on Wednesday, April 15, 1998

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 1998.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Ms. Linda Attkisson and Ms. Gene Wallace prepared the *House Journal* for the 1998 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

DON CETRULO
Director

The Capitol
Frankfort, Kentucky
1999

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FRIDAY, MARCH 13, 1998

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Ronny McKinney, Peaks Mill Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 12, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 185, HB 215, HB 259, HB 308, HB 352, HB 359, HB 361, HB 363, HB 366, HB 375, HB 405, HB 427, HB 445, HB 470, and **HB 609** delivered to the Senate and signed by the President. Delivered to the Governor on March 13, 1998 at 9:29 a.m.

Senate Message

Announcing passage of **SB 128, SB 151, HB 399**, and **HB 517**. Message received on **HB 131**: The Senate has passed **HB 131** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 10:05 a.m.)

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 810**, by Representative A. Arnold:

On page 3, after line 22 by inserting the following:

"***(6) Nothing in this section shall prohibit any county official specified in this section from refusing any or all salary increases indicated in the salary schedule pursuant to subsection (3) of this section.***"; and

On page 3, line 23 by deleting the "*(6)*" and by inserting in lieu thereof "*(7)*"; and

On page 4, line 1 by deleting the "*(7)*" and by inserting in lieu thereof "*(8)*".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **SB 307**

Banking and Insurance: **SB 227, SB 337**

Education: **HCR 131, SB 133, SB 230**

Elections and Constitutional: **SB 326**

Licensing and Occupations: **SB 355**

National Resources and Environment: **SB 300, SB 311, SB 313, SB 318**

State Government: **SB 270**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **SB 41, SB 208, SB 252, SB 248, SB 92**

Education: **SB 21, SB 242, SB 257, SB 277, SB 295, SB 309, SB 332**

Report of Committees

The Committee on Education reported **HB 882**, with Committee Amendment No. 1 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 882, AN ACT relating to elementary and secondary education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that it is the responsibility of the General Assembly to insure that adequate resources are available for the public schools and that the changes in the cost of providing education programs are considered. Therefore, it is the goal of the General Assembly to enhance funding in the support education excellence in Kentucky program each fiscal year by increasing the base funding level as defined in KRS 157. 320(2) by a minimum of five percent (5%).

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Each superintendent shall hire a finance officer who shall be responsible for the cash, investment, and financial management of the school district. The Kentucky Board of Education shall promulgate administrative regulations establishing minimum qualifications for hiring, training, and continuing education required for continued employment of school finance officers.

Section 3. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken by the Kentucky Board of Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476.

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education[~~ no later than October 1, 1991~~]. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. ***The division shall develop a model formula for evaluating the impact that local, state, and federal funding allocation and disbursement has on per pupil revenues and expenditures.*** It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the Governor, the Legislative Research Commission, and the Kentucky Board of Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting, contracting for, or requesting periodic program and fiscal audits as necessary. The Office of Education Accountability may request an audit from the ***Office of***[~~State Committee for~~] School District Audits as established in KRS 156.265.

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the Kentucky Board of Education, and make recommendations for action to the Legislative Research Commission.

5. Conduct studies and analyze available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the Legislative Research Commission as directed by the Commission.

7. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the Governor, the Legislative Research Commission, and the Kentucky Board of Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which if accurate may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

Section 4. KRS 157.390 is amended to read as follows:

(1) (a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.

(2) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

1. Zero (0) to three (3) years;

2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and
5. Twenty (20) or more years.

(3) (a) The rank and experience of the teacher shall be determined on September 15.

(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.

(4) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(5) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(6) The total amount of money distributable to each district from the public school fund shall be the sum of the allotments in subsections (3), (4), and (5) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).

(7) The Kentucky Board of Education shall create a ***comprehensive professional compensation plan for certified staff. The plan shall be designed to provide adequate and competitive salaries that attract, reward, and retain professional teachers in the Commonwealth. The plan shall recognize a teacher's professional competency, skills, and knowledge; contributions to improve schools and student achievement and learning; professional involvement in local, state, and national organizations; and certification from the National Board for Professional Teaching Standards. The comprehensive plan shall be developed by the Department of Education staff in cooperation with representatives of education advocacy organizations, other government agencies, and compensation experts selected by the Kentucky Board of Education. The comprehensive plan shall be developed during the 1998-2000 biennium. The Kentucky Board of Education shall recommend a plan to conduct a pilot program in one (1) or more of the local school districts. The Kentucky Board of Education shall complete the comprehensive plan by September 1, 1999 and submit it to the Legislative Research Commission for consideration by the Interim Joint Committee on Education***[~~Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly~~].

Section 5. KRS 156.690 is amended to read as follows:

(1) The Kentucky Board of Education shall initiate a program to assist and encourage each certified teacher to purchase a computer for his own personal use. The program shall include, but not be limited to, the following:

(a)[~~(1)~~] The Kentucky Board of Education shall obtain by competitive bidding or negotiation the lowest possible purchase prices for various personal computers on behalf of all interested teachers.

(b)[~~(2)~~] The Kentucky Board of Education shall arrange a suitable training program in the use of these computers with the vendor awarded the contract.

(2) The Kentucky Board of Education shall develop a plan to expand access to the statewide education technology network to education advocacy organizations and groups.

Section 6. KRS 158.785 is amended to read as follows:

(1) The Kentucky Board of Education shall establish a program to improve specific aspects of the management of local school districts as described in KRS 158.780.

(2) The State Department of Education shall, pursuant to administrative regulations promulgated by the Kentucky Board of Education, collect and review data relative to the instructional and operational performance of local school districts. When a review of the data or of any other information, including site investigations of local management practices, indicates the presence of critically ineffective or inefficient management, the chief state school officer shall order a management audit of the governance and administration of the district. A local school board or superintendent may also request a management audit of the district.

(3) If a management audit, conducted for any of the reasons set forth in subsection (2) of this section, indicates that there is a pattern of a significant lack of efficiency and effectiveness in the governance or administration of a school district, the chief state school officer shall recommend the district to the Kentucky Board of Education either as a "state assisted

district" or a "state managed district."

(4) The Kentucky Board of Education shall promulgate an administrative regulation establishing a procedure for considering the recommendation of the chief state school officer to declare a district a "state assisted district" or a "state managed district." This procedure shall fully comply with the procedures for administrative hearings established in KRS Chapter 13B.

(5) When the chief state school officer presents a recommendation to the state board for designation as a "state assisted district" or a "state managed district," he shall establish the following:

(a) Existence of a pattern of a significant lack of efficiency and effectiveness in the governance or administration of the school district;

(b) The pattern of a significant lack of efficiency and effectiveness in the governance or administration of the school district continues to exist; and

(c) State assistance or state management is necessary to correct the inefficiencies and ineffectiveness.

(6) When a district is designated a "state assisted district" under subsection (4) of this section, the following actions shall be required of the chief state school officer:

(a) Management assistance shall be provided to the district to develop and implement a plan to correct deficiencies found in the management audit.

(b) The Department of Education shall monitor the development and implementation of the correctional plan to improve the governance or administration of the school district. If the chief state school officer determines that the plan is being inadequately developed or implemented, he shall make a recommendation to the Kentucky Board of Education to declare the district a "state managed district."

(7) If the state board designates a district a "state managed district" under subsection (4) of this section, the following actions shall be required of the chief state school officer:

(a) All administrative, operational, financial, personnel, and instructional aspects of the management of the school district formerly exercised by the local school board and the superintendent shall be exercised by the chief state school officer or his designee.

(b) Any local school board member or the local superintendent may be removed from office by the Kentucky Board of Education pursuant to KRS 156.132.

(c) Notwithstanding any statute to the contrary, after thirty (30) days after a district becomes a "state managed district" any appointment to an administrative position may be revoked by the chief state school officer and the individual employee may be reassigned to any duty for which that person is qualified. The chief state school officer shall provide to the reassigned employee written reasons for the reassignment. The individual shall not be dismissed from subsequent employment except as provided by KRS 156.132 and 161.790.

(d) The chief state school officer shall make the administrative appointments as necessary to exercise full and complete control of all aspects of the management of the district. The chief state school officer, through the appointments, may make any and all decisions previously made by the local school board and the local superintendent. The chief state school officer shall retain clear supervisory and monitoring powers over the operation and management of the district.

(8) A school district shall be designated as a "state managed district" until the Kentucky Board of Education determines that the pattern of ineffective and inefficient governance or administration and the specific deficiencies determined by the management audit have been corrected. Each year following the school year in which the designation of a "state managed district" was made, the chief state school officer shall report the status of the corrective action being taken to the Kentucky Board of Education.~~[No local school district shall remain in the status of a "state managed district" longer than three (3) consecutive school years unless the Kentucky Board of Education extends the time after a complete review of a new management audit.]~~ Any judicial review of actions taken by the chief state school officer or the board under KRS 158.780 or this section shall be in accordance with the provisions for conducting judicial review of administrative hearings outlined in KRS Chapter 13B.

Section 7. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by the chief state school officer within ninety (90) days after the vacancy occurs. The member so chosen shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his successor is elected and has qualified. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the chief state school officer to fill the vacancy.

(3) Any vacancy on a board of education that exists due to resignation or removal as provided under Section 9 of this

Act shall be filled by the chief state school officer. The member shall serve for the duration of the unexpired term.

Section 8. KRS 156.132 is amended to read as follows:

As used in this section, except subsection (1), "public school officer" means a person who previously served as a superintendent of schools or board member during which time charges were brought against him under this section.

(1) The chief state school officer shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher, member of a school council, or other public school officer as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. In the case of a member of a school council, the written charges shall be provided to the local board of education.

(2) The chief state school officer shall recommend by written charges the suspension by the Kentucky Board of Education of any district board member, superintendent of schools, or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, nonfeasance, or who shall be removed pursuant to KRS 158.6455(7) ***or Section 9 of this Act***. If the charges brought under this subsection represent an immediate threat to the public health, safety, or welfare, the Kentucky Board of Education shall summarily suspend the person against whom the charges are made. The action by the Kentucky Board of Education may be taken upon a recommendation of the chief state school officer, or the action may be taken by a majority vote of the Kentucky Board of Education without recommendation from the chief state school officer.

(3) The Kentucky Board of Education may suspend a district superintendent of schools or other public school officer under subsection (2) of this section or remove him pursuant to subsection (5) of this section only if, after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the proper school authorities having immediate jurisdiction, either the superintendent or the district board of education, have refused to act, have acted in bad faith, arbitrarily, or capriciously, or if a recommendation to the district board would have been futile.

(4) Any officer suspended by the Kentucky Board of Education under subsection (2) of this section shall be furnished with an emergency order specifying in detail the reasons for suspension and notifying the officer of his right to appeal the action and have an emergency hearing pursuant to KRS 13B.125.

(5) As an alternative to first seeking suspension, the chief state school officer may recommend by written charges the removal by the Kentucky Board of Education of any district board member, superintendent of schools, or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance, or who shall be removed pursuant to KRS 158.6455(7) ***or Section 9 of this Act***. The officer against whom the written charges are issued by the chief state school officer shall be furnished with the written charges and notice of procedural rights conferred under KRS Chapter 13B. Within twenty (20) days after receipt of the charges, the officer may notify the Kentucky Board of Education of his intention to appear and answer the charges. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the officer fails to notify the board of his intention to appear and answer the charges, the Kentucky Board of Education may remove the officer by a majority vote, and the dismissal shall be final.

(6) The hearing shall be public or private at the discretion of the accused former or current superintendent and shall be public when testimony is taken for board members.

(7) The Kentucky Board of Education may meet in closed session to consider the evidence and may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare final order specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension if applicable, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.

(8) The officer shall have a right to appeal on the record to the Circuit Court located in the county of the school district in accordance with KRS Chapter 13B. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the State Department of Education.

(9) If a superintendent of schools is removed from office or resigns while charges are pending pursuant to this section after July 15, 1994, any continuing contract pursuant to KRS 161.720 to 161.810 shall be terminated. If the removal is reversed upon appeal, the continuing contract shall be restored and he shall be paid his full salary for the period of suspension.

Section 9. KRS 160.550 is amended to read as follows:

(1) No superintendent shall recommend and no board member shall knowingly vote for an expenditure in excess of the income and revenue of any year, as shown by the budget adopted by the board and approved by the Kentucky Board of Education, except for a purpose for which bonds have been voted or in case of an emergency declared by the Kentucky Board of Education.

(2) Any school district having authorized an expenditure in violation of subsection (1) of this section may be so certified at any time by the Kentucky Board of Education. A district so certified shall thereafter, any contrary statutory provisions

notwithstanding, make no expenditure of money, give no authorization involving the expenditure of money, and make no employment, purchase, or contract, unless the chief state school officer has approved in writing, as fiscally sound and necessary, the expenditure, authorization, employment, purchase, or contract. Any expenditure, authorization, employment, purchase, or contract made in violation of this subsection shall be void.

(3) Any school district subject to the provisions of subsection (2) of this section shall so remain until such time as the Kentucky Board of Education has approved, in conformity with KRS 160.470, a budget for the district for a succeeding fiscal year.

(4) ***The Kentucky Board of Education shall submit a report to the Office of Education Accountability regarding a school district certified as a school in deficit. The report shall contain an audit, reasons contributing to the deficit, and other relevant information.***

(5) In addition to the penalties set forth in KRS 160.990, any person who knowingly expends or authorizes the expenditure of school district funds or who knowingly authorizes or executes any employment, purchase, or contract, in violation of this section, shall be jointly and severably liable in person and upon any official bond he has given to such district to the extent of any payments on the void claim.

(6) Any person who knowingly expends or authorizes the expenditure of school district funds or who knowingly authorizes or executes any employment, purchase, or contract, in violation of a budget approved by the Kentucky Board of Education for reduction of the deficit, may be subject to removal from office as provided in KRS 156.132.

(7) For purposes of this section, "knowingly" shall mean a person acts with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

Section 10. KRS 156.255 is amended to read as follows:

As used in KRS 156.255 to 156.295:

(1) "Accountant" means a certified public accountant or a public accountant registered with the State Board of Accountancy.

(2) "Board" means the board of education of a school district.

(3) "Committee" means the ***Advisory***[~~State~~] Committee for School District Audits.

(4) "State board" means the Kentucky Board of Education.

(5) "Office" means the Office of School District Audits within the Kentucky Department of Education.

Section 11. KRS 156.265 is amended to read as follows:

(1) There shall be ***an Office of School District Audits in the Kentucky Department of Education that shall be attached to the office of the commissioner of education and be subject to the policy direction of the state board. The state board shall promulgate administrative regulations to establish procedures and requirements for the office and for school district audits including extensions for multiple years***[~~a State Committee for School District Audits comprised of the Governor, or a person designated by him, the Attorney General, a person designated by the secretary of the Finance and Administration Cabinet and the chief state school officer. The Governor, or the person designated by him, shall be the chairman of the committee~~].

(2) The ***office***[~~committee~~] shall have the accounts of each board audited ***annually***[~~not less than once every two (2) fiscal years~~]. The ***office***[~~committee~~] also may, at any time, cause to be made a comprehensive and complete audit of any board.[~~Upon the written request of the state board, the chief state school officer, the Attorney General, the Auditor of Public Accounts, the Governor, or the Office of Education Accountability, the committee may cause the accounts of a board to be audited.~~] Each audit shall cover ***a specified***[~~such~~] period of time, and shall ***be conducted according to the***[~~include such~~] auditing procedures and standards ***established by the Kentucky Board of Education***[~~, as the committee may designate~~]. ***The office shall submit an annual report to the Advisory Committee for School District Audits and the Kentucky Board of Education.***

(3) Audits authorized under this section are in addition to any audits contemplated under KRS 11.090, 156.200 or KRS Chapter 43.

(4) The actual expense of any audit authorized under this section shall be borne equally by the district board of education and by the ***office***[~~committee~~] from funds allocated to it.

(5) There shall be an Advisory Committee for School District Audits comprised of the Auditor of Public Accounts, the Attorney General, the secretary of the Finance and Administration Cabinet, the executive director of the Office of Education Accountability, the executive director of the State Board of Accountancy, and the executive director of the Kentucky Society of Certified Public Accountants. The Auditor of Public Accounts shall be the chair of the committee. No proxies or designees shall be permitted. The committee shall meet semiannually to receive, review, and make recommendations on the report from the Office of School district audits.

Section 12. KRS 156.275 is amended to read as follows:

(1) ***To conduct the audit authorized by Section 10 of this Act, the board***[~~The committee~~] shall select, ***subject to the***

approval of the office[~~to make the audit authorized under KRS 156.265~~], accountants who are qualified under KRS Chapter 325 and the administrative regulations promulgated by the Kentucky State Board of Accountancy.

(2) ***Notwithstanding KRS 424.260 and KRS Chapter 45A, a school district shall obtain auditing services through competitive negotiations using a request for proposal containing criteria set forth by the office. The school district shall advertise for the bids in the local newspapers.***

(3) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations in ***the***[~~such~~] form and[~~ in such~~] detail as the ***office***[~~committee~~] may prescribe. The report shall be ***submitted to the board,***[~~to~~] the ***office, and the Office of Education Accountability with the***[~~committee and in such~~] number of copies[~~ as~~] specified by the ***audit contract***[~~committee. The committee shall furnish one (1) copy to the Kentucky Board of Education, one (1) copy to the district board of education to which the report pertains, one (1) copy to the chief state school officer and one (1) copy to the Auditor of Public Accounts~~]. The district board of education shall keep a copy of the report on file in the office of the superintendent of schools of the district and the report shall be open to inspection by any interested person, subject to reasonable rules as to time and place of inspection.

Section 13. KRS 156.285 is amended to read as follows:

(1) The accountant shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money, and property of any board. Every officer or employee of ***the***[~~any such~~] board having[~~ such~~] records or property in his possession or under his control shall permit access to and examination of them upon the request of the accountant.

(2) The ***office***[~~committee~~] may require information on oath from any person touching any matters relative to any account that the accountant is required to audit. The ***office***[~~committee~~] may administer the oath, or have it done by any officer authorized to administer an oath.

(3) The ***office***[~~committee~~] may issue process and compel the attendance of witnesses before it, and administer oaths and compel witnesses to testify in any of the investigations the accountant is authorized to make.

Section 14. KRS 156.295 is amended to read as follows:

(1) Any officer or employee of a board or any other person who prevents, attempts to prevent, or obstructs an examination by the accountant made under ***Sections 11 and 12 of this Act***[~~KRS 156.265 and 156.275~~] is guilty of a high misdemeanor and shall, upon indictment and conviction in the Circuit Court of competent jurisdiction, be fined five hundred dollars ($500).

(2) Any person who fails or refuses to permit the examination provided for in ***Section 13 of this Act***[~~KRS 156.285~~] or who interferes with ***the***[~~such~~] examination shall be fined not less than one hundred dollars ($100) or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both. Each refusal shall constitute a separate offense.

(3) Any person who has custody of any books, accounts, reports, vouchers, correspondence, files, records, money, and property that the accountant is authorized to examine under ***Sections 11 and 13 of this Act***[~~KRS 156.265 and 156.285~~] who fails or refuses when called upon by the ***office***[~~committee~~] for that purpose to permit the accountant to inspect any of such materials shall, upon conviction in the Circuit Court of competent jurisdiction, be fined not more than five hundred dollars ($500) and be subject to removal as provided by law.

(4) Any person who refuses to be sworn when required by the ***office***[~~committee~~] to be sworn for the purpose mentioned in subsection (2) of ***Section 13 of this Act***[~~KRS 156.285~~] shall be fined not more than five hundred dollars ($500).

(5) Any witness called by the ***office***[~~committee~~] under subsection (3) of ***Section 13 of this Act***[~~KRS 156.285~~] who fails, without legal excuse, to attend or testify shall be fined not more than five hundred dollars ($500).

Section 15. KRS 160.642 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 ***may***[~~shall~~] be audited as provided by KRS 156.265 to 156.285.

Section 16. KRS 161.800 is amended to read as follows:

(1) [~~When by reason of decreased enrollment of pupils, or by reason of suspension of schools or territorial changes affecting the district, ~~]A local superintendent[~~ decides that it shall be necessary to reduce the number of teachers, he~~] shall have full authority to make reasonable ***reductions in the number of teachers and administrators with continuing and limited contracts under the following conditions:***

(a) Decreased enrollment of pupils;

(b) Suspension of schools;

(c) Territorial changes;

(d) Loss of revenue;

(e) Budget deficit;

(f) Curricular changes; or

(g) School-based decision making allocation adjustments[~~reduction~~].

(2) [~~But,~~]In making ***the***[~~such~~] reduction, the local superintendent shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers whose continuing contracts are suspended shall have the right of restoration in continuing service status in the order of seniority of service in the district if teaching positions become vacant or are created for which any of the teachers are or become qualified. ***If no teacher with continuing contract status is available to fill a vacant position, qualified teachers employed under limited contract shall have the right of restoration in the order of seniority unless the written notification at the time of the layoff meets the requirements of KRS 161.750(2).***

Section 17. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget in formats prescribed and furnished by the Kentucky Board of Education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Revenue Cabinet of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in ***subsections***[~~subsection~~] (12) ***and (13)*** of this section and KRS 157.440. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in ***subsections***[~~subsection~~] (12) ***and (13)*** of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (12) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (10) of this section.

(4) The chief state school officer shall certify the following to each district board of education, by June 30 of each year:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data, the Revenue Cabinet shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the Kentucky Board of Education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.090 with the written approval of the Kentucky Board of Education; or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of a school district by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the Kentucky Board of Education; or

(c) Fails to comply with the law.

The Kentucky Board of Education shall state the reason for disapproval and the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the Kentucky Board of Education for final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the Kentucky Board of Education.

(9) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 15 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 15, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) Except as provided in subsection (12) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of ***subsections***[~~subsection~~] (2) ***and (13)*** of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;
2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year, and the revenue expected to be produced by those rates;
3. The compensating general, voted general, and voted building tax rates, and the revenue expected from them;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection (12) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS

132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection (12) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(12) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with subsection (12)(a) of this section, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

(13) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1998, the board of education of each school district may levy a general tax rate, voted general tax rate, or voted building tax rate that will produce, respectively, revenue from real property, exclusive of revenue from new property, up to four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010.

(b) The general tax rate, voted general tax rate, or voted building tax rate voted by a district board of education under the provisions of this subsection shall be subject only to the public hearing requirements as provided in this subsection.

Section 18. KRS 160.473 is amended to read as follows:

(1) In the event that a general tax rate, voted general tax rate, or voted building tax rate applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate, voted general tax rate, or voted building tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, ***except in the case of a general tax rate, voted general tax rate, or voted building tax rate levied under the provisions of subsection (13) of Section 17 of this Act,***[~~in no event shall~~] the general tax rate, voted general tax rate, or voted building tax rate levied by the district board of education applicable to personal property ***shall not*** exceed the prior year general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by the respective district board of education.

(2) The general tax rate, voted general tax rate, or voted building tax rate applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(10) and to the recall provisions of KRS 160.470(11).

Section 19. KRS 157.621 is amended to read as follows:

(1) Local school districts that have experienced student population growth during a five (5) year period may levy a five cents ($0.05) tax for debt service and new facilities in addition to the five cents ($0.05) levied under the school construction funding program provided in KRS 157.620. The tax rate levied by the district under this provision shall not be subject to a recall vote as provided in KRS 160.470(11) and shall not be equalized by state funding.

(2) A local school district shall meet the following criteria in order to levy the tax provided in subsection (1) of this section:

(a) Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;

(b) Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;

(c) Current student enrollment in excess of available classroom space; and

(d) A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.

(3) When the state appropriations amount to the total cost of equalizing the five cents ($0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire.

(4) Notwithstanding any statutory provisions to the contrary, a local school district that levied a special voted building fund tax prior to July 13, 1990, shall be permitted to levy up to five cents ($0.05) of a special voted building fund tax above the tax levied in accordance with KRS 157.440(1)(a), subject to the public hearing provisions of KRS 160.470(10). The provisions concerning recall votes and reconsideration by the local school district shall not apply.

Section 20. The Kentucky Department of Education shall conduct a study of professional development and training for school personnel in the use of educational technology to determine the adequacy and effectiveness of the training activity in improving teaching, and student learning and achievement. A report shall be submitted to the Kentucky Board of Education for approval and to the Legislative Research Commission no later than April, 1999.

Section 21. Beginning with the 1998-99 school year, each local school district and the Department of Education shall calculate the number of pupils in average daily membership as well as the number in average daily attendance as required under the provisions of KRS Chapter 157. The Department of Education shall conduct a study of the data to determine the impact of the two (2) methods of calculation on the distribution of funds from the Support Education Excellence in Kentucky program for the 1998-2000 biennium and submit a report to the Kentucky Board of Education and the Legislative Research Commission by October, 1999.

Section 22. Whereas school districts begin their fiscal years July 1 and must adjust their operations to be responsive to the amendments of this Act, an emergency is declared to exist and Sections 17, 18, and 19 of this Act take effect on this Act's passage and approval of the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 882** is as follows:

On page 15, by deleting lines 23 through 27 in their entirety; and

On pages 16 through 18, by deleting all lines in their entirety; and

On page 19, by deleting lines 1 through 22 in their entirety; and

On page 20, by deleting all new language on lines 15 through 19; and

By renumbering all subsequent sections; and

On page 27, line 24, by changing "***Section 17***" to "***Section 11***"; and

On page 29, line 5, by deleting all new language after the period; and

On page 29, by deleting line 6 in its entirety; and

On page 29, between lines 6 and 7, by inserting the following:

"SECTION 14. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

There shall be a Division of School District Audits in the Kentucky Department of Education that shall be attached to the office of the commissioner of education. The state board shall promulgate administrative regulations to establish procedures and requirements for the office and for school district audits."; and

By renumbering all subsequent sections; and

On page 29, line 23, by changing "17, 18, and 19" to 11, 12, and 13"; and

The Committee on Labor and Industry reported **HB 735** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 735, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	***1.25***[~~0.75~~]
6 to 10%	***1.50***[~~1.00~~]
11 to 15%	***1.75***[~~1.25~~]
16 to 20%	***2.00***[~~1.50~~]
21 to 25%	***2.25***[~~1.75~~]
26 to 30%	***2.50***[~~2.00~~]
31 to 35%	***2.70***[~~2.25~~]
36% and above	***3.00***[~~2.50~~]

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on

account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 63** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:19 a.m.)

Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 33**, by Representative Vincent:

On page 1, line 4, by deleting the brackets and strike-throughs; and

On page 1, lines 6 and 7, by bracketing and striking through "The third Monday in February; (d)"; and

On page 1, line 8, by placing "***(d)***" in front of "(e)" and by bracketing and striking through "(e)"; and

On page 1, line 9, by placing "***(e)***" in front of "(f)" and by bracketing and striking through "(f)"; and

On page 1, line 10, by placing "***(f)***" in front of "(g)" and by bracketing and striking through "(g)"; and

On page 1, line 11, by placing "***(g)***" in front of "(h)" and by bracketing and striking through "(h)"; and

On page 1, line 12, by deleting "***(i)***" and inserting in lieu thereof "***(h)***"; and

On page 1, line 13, by deleting "***(j)***" and by removing the brackets and strike-throughs; and

On page 1, line 14, by deleting "***(k)***" and by removing the brackets and strike-throughs.

Calendar

HB 555, HB 786, HB 899, SB 55, HB 508, HB 534, HB 804, SB 296, HB 790, HB 827, HJR 92, HJR 115, HCR 119, SB 106, SB 122, SB 354, HB 697, HB 719, HB 726, HB 863, SB 269, HB 66, HB 385, HB 462, HB 547, HB 696, HB 751, HB 767, SB 19, HB 329, HB 904, HJR 117, SB 247, HB 96, HB 181, HB 223, HB 297, HB 585, HB 707, HB 794, HB 803, HB 812, HB 818, HB 840, SB 36, SB 74, SB 250, HB 718, HB 826, HB 864, and **SB 83** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 882**, by Representative Treesh:

On page 15, lines 15-19, after "***(6)***" by deleting all new and underlined language in its entirety; and

On page 15, line 20, by deleting "***(7)***".

Floor Amendment No. 3 to the Committee Substitute to **HB 532**, by Representative Curd:

On page 6, line 8 after "Section 2." by deleting "KRS 161.155 is amended to read as follows:";

On page 6, delete lines 9 through 27 in their entirety;

On page 7, delete lines 1 through 27 in their entirety;

On page 8, delete lines 1 through 27 in their entirety;

On page 9, delete lines 1 and 2 in their entirety;

On page 9, line 3 by deleting "Section 3.";

On page 15, line 7 by changing "Section 4." to "Section 3.";

On page 15, line 21 by changing "Section 5." to Section 4.;

On page 17, line 3 by changing "Section 6." to "Section 5.";

On page 19, line 23 by changing "Section 7." to "Section 6.";

On page 20, line 17 by changing "Section 8." to "Section 7.";

On page 22, line 11 by changing "Section 9." to "Section 8.";

On page 23, line 1 by changing "Section 10." to "Section 9.";

On page 23, line 7 by placing brackets around and striking through "1998" and inserting "***2000***" in lieu thereof;

On page 24, line 22 after "***$7,828,000***" by inserting "***in 1999-2000***";

On page 25, line 4 by changing "Section 11." to "Section 10.";

On page 26, line 10 by changing "Section 12." to "Section 11.";

On page 27, line 26 by changing "Section 13." to "Section 12.";

On page 31, line 1 by changing "Section 14." to "Section 13.";

On page 31, line 13 by changing "Section 15." to "Section 14.";

On page 32, line 1 by changing "Section 16." to "Section 15.";

On page 33, line 27 by changing "SECTION 17." to "SECTION 16.";

On page 34, line 13 by changing "Section 18." to "Section 17.".

Floor Amendment No. 2 to **HB 882**, by Representative Treesh:

On page 11, by deleting lines 15 through 27 in their entirety; and

On page 12, by deleting line 1 in its entirety; and

By renumbering the subsequent sections; and

On page 12, line 17, by changing "***Section 9***" to "***Section 8***"; and

On page 13, line 13, by changing "***Section 9***" to "***Section 8***"; and

On page 17, line 15, by changing "***Section 10***" to "***Section 9***"; and

On page 19, lines 1 and 2, by changing "***Section 13***" to "***Section 12***"; and

On page 19, line 8, by changing "***Sections 11 and 13***" to "***Sections 10 and 12***"; and

On page 19, line 14, by changing "***Section 13***" to "***Section 12***"; and

On page 19, line 16, by changing "***Section 13***" to "***Section 12***"; and

On page 27, line 24, by changing "***Section 17***" to "***Section 16***"; and

On page 29, line 23, by changing "Sections 17, 18, and 19" to "Sections 16, 17, and 18".

Floor Amendment No. 1 to the Committee Substitute to **HB 794**, by Representative Wilkey:

On page 2, line 23, by deleting "***D felony***" and inserting in lieu thereof "***A misdemeanor***" and by deleting "***C***" and inserting in lieu thereof "***D***"; and

On page 2, line 24, by deleting "***B***" and inserting in lieu thereof "***C***".

Floor Amendment No. 1 to the Committee Substitute to **HB 181**, by Representative Brown:

On page 2, line 4, after "***has***" insert "***abandoned the child or both parents have abandoned the child,***"; and

On page 2, line 4, by deleting "***a child support***"; and

On page 2, by deleting the new language on lines 5, 6, and 7.

Floor Amendment No. 1 to the Committee Substitute to **HB 223**, by Representative Jordan:

On page 3, line 12, by deleting "***, as the relator may elect***"; and

On page 3, line 20, by deleting "***for the relator***".

Floor Amendment No. 1 to **HB 724**, by Representative Lindsay:

On page 2, at the beginning of line 25, by deleting "***employers,*** " and inserting in lieu thereof, "***business, labor,***".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 595, HB 700, HB 813, HCR 113, HCR 124, HB 66, HB 223, HB 462, HB 508, HB 547, HB 697, HB 707, HB 719, HB 804, HB 864, HB 899, HB 904, HJR 92, HJR 115, HJR 117,** and **HCR 119** have been posted for passage in the Orders of the Day for March 16, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 509, HB 216, HB 522, HB 613, HB 96, HB 181, HB 297, HB 329, HB 385, HB 534, HB 555, HB 585, HB 696, HB 718, HB 726, HB 751, HB 767, HB 786, HB 790, HB 794, HB 803, HB 812, HB 818, HB 826, HB 827, HB 840, HB 863**

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 522**, by Representative Siler:

On page 1, line 1 after "Section 1." delete "KRS 160.350 is amended to read as follows:";

On page 1, delete lines 2 through 25 in their entirety;

On page 2, delete lines 1 through 23 in their entirety;

On page 2, line 24, delete "Section 2.";

On page 3, delete all new language in lines 25 through 27;

On page 4, delete all new language in lines 1 and 2; and

On page 4, remove the brackets and strike-throughs on lines 2 and 3.

Floor Amendment No. 1 to **HB 864**, by Representative Gooch:

On page 4, between lines 20 and 21, by inserting the following:

"SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The benefits required by Sections 1, 2, 3, 4, 5, and 6 of this Act shall apply only to standard benefit health plans issued in the Commonwealth under the requirements of Subtitle 17 of KRS Chapter 304 and KRS 304.17A-160.";

And by renumbering the subsequent sections accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 554**, by Representative Crall:

On page 1, line 5, by adding after the word "by" the words "***their respective company***" and by bracketing and striking through the words "the contractor" and by deleting the word "***or***"; and

On page 1, line 6, by deleting the word "***subcontractor***"; and

On page 1, line 12, by adding after the word "violation" the following: "***by the contractor***"; and

On page 1, between lines 17 and 18, by adding the following:

"***(3) A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:***

(a) Cancellation of the subcontractor's contract; and

(b) Disqualification of the subcontractor from eligibility for future state contracts for a period of two (2) years." and

On page 2, line 7, by adding after the word "violation" the following: "***by the contractor***"; and

On page 2, after line 12, by adding the following:

"***(4) A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:***

(a) Cancellation of the subcontractor's contract; and

(b) Disqualification of the subcontractor from eligibility for future state contracts for a period of two (2) years.".

Floor Amendment No. 1 to the Committee Substitute to **HJR 92**, by Representative Worthington:

On page 14, line 8, delete line 8 in its entirety;

On page 14, line 9, at the end of line 9, delete fiscal year "2003" and insert fiscal year "2001"; and

On page 14, lines 11 and 12, delete lines 11 and 12 in their entirety.

Floor Amendment No. 1 to **HB 735**, by Representative Heleringer:

On page 6, after line 4 by adding the following section:

"Section 2. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge or arbitrator pursuant to the statutes and administrative regulations.

(2) Attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum

limits:

(a) Twenty percent (20%) of the award not to exceed ***five*** ~~[two]~~ thousand dollars ***($5,000)*** ~~[($2,000)]~~ for services performed up to and including the date of a written determination by the arbitrator. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b) Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.

(c) Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall fix an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under paragraphs (a) and (b) of this subsection.

(d) Attorney-client employment contracts entered into and signed prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996, shall not be subject to the conditions of paragraphs (a), (b), and (c) of this subsection, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply.

(3) In approving an allowance of attorney's fees, the administrative law judge or arbitrator shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court. The date of injury or last exposure shall control the applicable maximum attorney's fee.

(4) No attorney's fee ***in excess of one thousand dollars ($1,000)*** in any case involving benefits under this chapter shall be paid until the fee is approved by the arbitrator or administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee ***in excess of one thousand dollars ($1,000)*** shall be submitted within thirty (30) days following finality of the written determination of an arbitrator or last appealable order of an administrative law judge. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The arbitrator or administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge and arbitrator shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the arbitrator or administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the arbitrator or administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(b) of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall

be subject to approval of the administrative law judge or arbitrator in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the same limitations as to maximum fees at each level except that fees for representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed ***five*** [~~two~~] thousand dollars ***($5,000)*** [~~($2,000)~~]. Fees for representing employers shall not be dependent upon the result achieved. Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter."

Floor Amendment No. 1 to the Committee Substitute to **HCR 113**, by Representative Geveden:

On page 2, between lines 15 and 16, by inserting "(9) The Lieutenant Governor or his designee;"; and

On page 2, line 16, by deleting "(9)" and inserting "(10)" in lieu thereof; and

On page 2, between lines 16 and 17 by inserting the following:

"(11) The Attorney General or his designee;
(12) The Treasurer or his designee;
(13) The Commissioner of Agriculture or his designee;
(14) The Auditor of Public Accounts or his designee;
(15) The Director of the Long-Term Policy Research Center or his designee;"; and

On page 2, line 17, by deleting "(10)" and inserting "(16)" in lieu thereof; and

On page 2, line 19, by deleting "(11)" and inserting "(17)" in lieu thereof; and

On page 2, line 21, by deleting "(12)" and inserting "(18)" in lieu thereof; and

On page 2, line 23, by deleting "(13)" and inserting "(19)" in lieu thereof;.

Floor Amendment No. 2 to **HB 864**, by Representative Marzian:

On page 1, line 9, after "***hysterectomies;***" by inserting "***and***";

On page 1, line 10, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 1, line 12, after "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 1, line 13, by deleting lines 13 through 16 in entirety;

On page 2, line 1, after "***hysterectomies;***" by inserting "***and***";

On page 2, line 2, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 2, line 4, after "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 2, line 5, by deleting lines 5 through 8 in entirety;

On page 2, line 19, after "***hysterectomies;***" by inserting "***and***";

On page 2, line 20, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 2, line 22, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 2, line 23, by deleting lines 23 through 26 in entirety;

On page 3, line 10, after "***hysterectomies;***" by inserting "***and***";

On page 3, line 11, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 3, line 13, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 3, line 14, by deleting lines 14 through 17 in entirety;

On page 4, line 1, after "***hysterectomies;***" by inserting "***and***";

On page 4, line 2, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 4, line 4, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 4, line 5, by deleting lines 5 through 8 in entirety;

Orders of the Day

HB 321, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 321**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 321**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 321**. Agreed.

Representative Moberly moved that **HB 321**, by way of Committee Substitute as amended, be passed.

Representative Marcotte moved that Floor Amendment No. 4 to the Committee Substitute to **HB 321** be withdrawn. Agreed.

Representative Marcotte moved the adoption of Floor Amendment No. 13 to the Committee Substitute to **HB 321**. On the roll call on Floor Amendment No. 13 to the Committee Substitute to **HB 321** the vote was: Yeas 94, Nays 0 (See March 13, 1998, roll call on **HB 321** - Appendix.) Floor Amendment No. 13 to the Committee Substitute to **HB 321** was adopted.

Representative Siler moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 321**. Agreed.

Representative Ratliff moved the adoption of Floor Amendment No. 12 to the Committee Substitute to **HB 321**.

Representative Lindsay inquired if Floor Amendment No. 12 to the Committee Substitute to **HB 321** would result in increased expenditures and therefore was out of order according to Rule 61 since it does not specify a source of funds to support the increased expenditures.

The Speaker ruled that Floor Amendment No. 12 to the Committee Substitute to **HB 321** was out of order according to Rule 61.

Representative Damron moved that Floor Amendment No. 6 to the Committee Substitute to **HB 321** be withdrawn. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 321**. Representative Long inquired if Floor Amendment No. 5 to the Committee Substitute to **HB 321** was germane. The Speaker ruled that Floor Amendment No. 5 to the Committee Substitute to **HB 321** was not germane.

Representative Moberly moved that **HB 321**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See March 13, 1998 roll call on **HB 321** - Appendix.) **HB 321**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stumbo moved that the vote by which **HB 321**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the House Committee Substitute to **SB 65**, by Representative Cox:

On page 5, by deleting lines 3 through 9 in their entirety; and

By renumbering the subsequent sections accordingly.

Orders of the Day (Continued)

HJR 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 34** be adopted.

On the roll call the vote was: Yeas 97, Nays 0 (See March 13, 1998 roll call on **HJR 34** - Appendix.) **HJR 34** was adopted. Representative Moberly moved that the vote by which **HJR 34** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 320, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 320**. Agreed.

Representative Moberly moved that **HB 320**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 1 (See March 13, 1998 roll call on **HB 320** - Appendix.) **HB 320**, by way of Committee Substitute, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 320**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 36** be adopted.

On the roll call the vote was: Yeas 97, Nays 1 (See March 13, 1998 roll call on **HJR 36** - Appendix.) **HJR 36** was adopted. Representative Moberly moved that the vote by which **HJR 36** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 31, HB 86, HB 234, HB 311, HB 399, HB 433,** and **HB 517** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -12:05 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 7 to **HB 735**, by Representative Deskins:

On page 6, after line 4 by adding the following section:

"Section 2. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include ~~[the effects of the natural aging process, and does not include]~~ any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all

membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one

(1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services,, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b)."

Floor Amendment No. 8 to **HB 735**, by Representative Deskins:

On page 6. after line 4, by adding the following section:

"Section 2. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) If an employee has a radiographic classification of category ***1/0*** ~~[1/1 or 1/2]~~, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by report of X-ray which conforms to the standards for X-rays contained in subsection (3) of KRS 342.316, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of ~~[fifty-five percent (55%) or more but less than]~~eighty percent (80%) ***or above*** of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740 but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one-hundred-eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars ($3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.

(b) ***If it is determined that an employee has a radiographic classification of category 1/1, 1/2, 2/1, or 2/3, based on the latest ILO International Classification of Radiographic and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of eighty percent (80%) or above of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, there shall be an irrebutable presumption that the employee has an occupational disability rating of ten percent (10%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (662/3%) of the employee's average weekly wage multiplied by a disability rating of ten percent (10%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined under KRS 342.740. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.001(23)(a).***

(c) If it is determined that an employee has a radiographic classification of category ***1/0,***1/1 ,~~[or]~~ 1/2, ***2/1, 2/2, or 2/3*** based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of ~~[less than]~~ fifty-five percent (55%) ***or more but less than eighty (80) percent*** of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American

Medical Association, or category ***3/2 or 3/3*** ~~[2/1, 2/2, or 2/3]~~ coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of ~~[fifty-five percent (55%) or more but less than]~~ eighty percent (80%) ***or more*** of the predicted normal values, there shall be an irrebuttable presumption that the employee has an occupational disability rating of ***twenty-five percent (25%)*** ~~[fifty percent (50%)]~~ resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of ***twenty-five percent (25%)*** ~~[fifty percent (50%)]~~ but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(d) ~~[(c)]~~ If it is determined that an employee has a radiographic classification of category ***1/0, 1/1,1/2,***2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee is ***fifty percent (50%)*** ~~[seventy-five percent (75%)]~~ disabled resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of ***fifty percent (50%)*** ~~[seventy-five percent (75%)]~~ but not to exceed seventy-five percent (75%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(e) (d) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge or arbitrator that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge or arbitrator shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.".

Orders of the Day (Continued)

HB 319 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 319** be passed.

On the roll call the vote was: Yeas 83, Nays 12 (See March 13 , 1998 roll call on **HB 319** - Appendix.) **HB 319** was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 319** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 35 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 35** be adopted.

On the roll call the vote was: Yeas 84, Nays 10 (See March 13, 1998 roll call on **HJR 35** - Appendix.) **HJR 35** was adopted. Representative Moberly moved that the vote by which **HJR 35** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the posting be waived on **SB 13, SB 202,** and **SB 19**. Agreed.

Representative Stumbo moved that no further business be conducted on this day, except for the filing of Floor Amendments and usual business taken care of in Motions, Petitions and Communications. Agreed.

Representative Stumbo moved that when the House does adjourn on this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 4:00 p.m., March 16, 1998. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 735**, by Representative Deskins:

On page 3, between lines 1 and 2, by inserting the following:

"*4. For permanent partial disability, if, in the opinion of the administrative law judge, a permanent disability rating under paragraph (b) of this subsection does not accurately reflect the true disability caused by the injury, the administrative law judge shall have the discretion to increase or decrease the factor to calculate disability by 0.75.*

5. For permanent partial disability, if, in the opinion of the administrative law judge, the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, do not adequately address the injured condition of the employee, the administrative law judge shall have the discretion to consider other standardized guidelines, treatises and other medical evidence in determining disability."

Floor Amendment No. 3 to **HB 735**, by Representative Deskins:

On page 6, after line 4, by inserting the following:

"Section 2. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner.~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to

that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Human Resources shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically-recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 4 to **HB 735**, by Representative Deskins:

On page 6, after line 4, by inserting the following:

"Section 2. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier. ***In addition, the employee shall retain the right to bring a cause of action against an insurance carrier, self-insurance group, or self-insured employer for violations of the section.***"

Floor Amendment No. 5 to **HB 735**, by Representative Deskins:

On page 2, line 10, by bracketing and striking through "1."; and

On page 2, line 16, by placing an opening bracket before "2." and striking through lines 16 through 27; and

On page 3, line 1, by striking through line 1 and placing a closing bracket after the ".".

Floor Amendment No. 6 to **HB 735**, by Representative Deskins:

On page 6, after line 4 by adding the following section:

"Section 2. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:
  (a) Fraud;
  (b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;
  (c) Mistake; and
  (d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses~~[,]~~ ***or*** fraud, ~~[or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work,]~~ no claim shall be reopened more than ~~[four (4) years]~~ ***five hundred twenty (520) weeks*** following the date of the original award or order granting or denying benefits ***becomes final*** , or ***except in situations involving surgical intervention*** within ***one (1) year*** ~~[two (2) years]~~ of such award or order, and ***except in situations involving surgical intervention,*** no party may file a motion to reopen within ***one (1) year*** ~~[two (2) years]~~ of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to

reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to ***the effective date of this Act*** ~~[December 12, 1996]~~, may be reopened within ***five hundred twenty (520) weeks*** ~~[four (4) years]~~ of the award or order or within ***five hundred twenty (520) weeks*** ~~[four (4) years]~~ of ***the effective date of this Act*** ~~[December 12, 1996]~~, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well."

Motions, Petitions and Communications (Continued)

Representative Riner moved that the House request that the Senate return **HB 753**. On the roll call on the motion that the House request that the Senate return **HB 753** the vote was: Yeas 26, Nays 38 (See March 13, 1998, roll call on - Appendix.) The motion that the House request that the Senate return **HB 753** was rejected.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 133, by Representatives Rader, Napier, Pope, Cox, Turner, D. D. Butler, Miniard, Colter, Hoover, Siler, and Mason: A RESOLUTION encouraging cost-free opening of landfills.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Economic Development: **SB 224**

Licensing and Occupations: **HB 878**; Withdrawn, **SB 34, SB 261, SB 363, SB 380**

Tourism Development and Energy: **SB 123**

Health and Welfare: **SB 72, SB 336**

Floor Amendments (Continued)

Floor Amendment No. 9 to **HB 735**, by Representative Deskins:

On page 5, line 11, by inserting an opening bracket before "All" and by striking through all language following "(4)";

On page 5, by striking through all language on lines 12 through 19;

On page 5, by striking through and placing a closing bracket after "(5)";

On page 5, before "(6)" by inserting "***(5)***" and by bracketing and striking through "(6)";

On page 6, line 2, before "(7)" by inserting "***(6)***" and by bracketing and striking through "(7)".

Floor Amendment No. 10 to **HB 735**, by Representative Deskins:

On page 6, after line 4, by inserting the following:

"Section 2. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to ***an employee's usual and customary*** employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to ***engage in substantial gainful employment*** [~~work~~]; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability [~~rating~~]and has [~~a complete and~~] permanent inability to perform any type of ***substantial gainful employment*** [~~work~~] as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;

5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;

6. Incurable ***psychiatric or psychological disease or disorder as defined by the "Guides to Evaluation of Permanent Impairment," American Medical Association, latest available edition*** ~~[insanity or imbecility]~~; or

7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance

policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred.

The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b)."

Floor Amendment No. 1 to **HB 805**, by Representative Cox:

On page 2, line 8, by inserting "***(1)***" in front of "Any"; and

On page 2, after line 14, by inserting the following:

"***(2) Each local board of education shall adopt policies in order that students complying with compulsory attendance policies shall have visual access to the preamble of the Kentucky Constitution upon entering their assigned school facility.***".

Floor Amendment No. 1 to **HB 375**, by Representative Deskins:

On page 6, after line 4, by inserting the following:

Section 2. KRS 342.230 is amended to read as follows:

(1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, arbitrators, administrative law judges, and board members, shall be members of the classified service.

(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges and arbitrators on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges, arbitrators, and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board, the administrative law judges, and arbitrators; annually report the activities of the board, administrative law judges, and arbitrators to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not ***more*** ~~[less]~~ than the salary of ***the Chief Judge of the Court of Appeals*** ~~[a member of the board]~~.

(3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case. To carry out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.

(4) To ensure that the administrative law judges and arbitrators perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.

(5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge or arbitrator. A member of the board or an administrative law judge or an arbitrator may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge, an arbitrator, or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

(6) Any vacancy in the term of an administrative law judge or an arbitrator, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars ($3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.

(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars ($2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.

(11) (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.

(b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.

Floor Amendment No. 3 to **HB 882**, by Representative Treesh:

On page 29, between lines 6 and 7, by inserting the following:

"Section 19. KRS 6.145 is amended to read as follows:

(a) A member of the General Assembly who desires to resign his office shall submit a letter of resignation to the officer required to issue a writ of special election to fill such vacancy, pursuant to KRS 118.730. Upon receiving such letter of resignation such officer immediately shall notify the director of the Legislative Research Commission of the fact of such resignation and its effective date.

(b) If a legislator is forced to leave office because of conviction of a felony or resigns under indictment or investigation, the legislator's successor shall be appointed by either the minority or majority floor leader of the House or Senate, depending upon the member's party affiliation and membership in the General Assembly, to fill the remainder of the term."; and

Renumbering all subsequent sections to conform.

Floor Amendment No. 2 to **HB 804**, by Representative Jenkins:

On page 1, line 16, by deleting "***in the absence of registered***" and inserting in lieu thereof "***for a period of four (4) years. After four (4) years, the trainee shall either become a registered apprentice electrician or apply to become a licensed electrician.***"; and

On page 1, lines 17 through 19, by deleting the language in its entirety; and

On page 2, line 24, by deleting the words "***and data***"; and

On page 2, line 25, by deleting the words "***communication low voltage wiring***"; and

On page 15, lines 22 through 25, by deleting the language in its entirety; and

On page 15, line 26, by deleting the "***(3)*** and inserting in lieu thereof "***(2)***"; and

On page 16, line 6, by deleting the "***(4)***" and inserting in lieu thereof "***(3)***"; and

On page 16, line 11, by deleting the "***(5)***" and inserting in lieu thereof "***(4)***".

Motions, Petitions and Communications (Continued)

Representative Reinhardt moved the adoption of the following **Legislative Citation No. 160**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Sister Ruth Nadicksbernd, Principal St. Philip Elementary School for her many years of dedicated service to the students of this outstanding school. Whereas, education is the key to success in the twenty-first century; and the evolution of children into outstanding citizens depends uniquely upon quality education; heretofore, the members of the Kentucky House of Representatives join Representative Jon David Reinhardt in commending this phenomenal recipient's remarkable accomplishments in the Catholic School System; and further recognize that her dedication to bringing the students to Frankfort to learn first hand about the legislative process induces this honorable body to praise the extraordinary contribution to the students of St. Philip Elementary School made by this outstanding educator. **Legislative Citation No. 160** was adopted without objection.

Representative Reinhardt moved the adoption of the following **Legislative Citation No. 161**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors St. Christopher Elementary for outstanding effort in promoting the educational success of the Commonwealth's future leaders. Inasmuch as this exemplary institution fosters the pursuit of academic excellence and is notably instrumental in developing high caliber citizens who are prepared to meet the challenges of the future, it is with great pleasure that the members of this honorable body join with Representative Mike Weaver in welcoming the students and teachers of St. Christopher Elementary to today's session of the 1998 Kentucky General Assembly. **Legislative Citation No. 161** was adopted without objection.

Representative Weaver moved the adoption of the following **Legislative Citation No. 157**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors St. Brigid Elementary School as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are pleased to join Representative Mike Weaver in applauding the inititative of the students and teachers of St. Brigid Elementary School and in extending our warmest welcome as they join us to witness the proceedings of the 1998 Kentucky General Assembly. **Legislative Citation No. 157** was adopted without objection.

Representative Weaver moved the adoption of the following **Legislative Citation No. 159**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Maynard B. Futscher for demonstrating outstanding dedication to the students at St. Philip Elementary School by the effort put forth accompanying them on their quest for knowledge and understanding of the legislative process by their visit to the Capitol in Frankfort. The entire membership joins with Representative Jon David Reinhardt in expressing gratitude to this devoted parishioner who has for many years worked diligently to arrange tours for the students of St. Philip School. **Legislative Citation No. 159** was adopted without objection.

Representative Ford moved that the House request that the Senate return **HB 717**. Representative Ford moved that the motion that the House request that the Senate return **HB 717** be withdrawn. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 162**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Western Elementary School as an outstanding academic institution dedicated to promoting the educational success of its students. Inasmuch as the teachers and students of Woodstock Elementary School have demonstrated an exemplary interest in the government of this great

Commonwealth, the members of this honorable body join Representative Jack Coleman in welcoming them to today's session of the House of Representatives. **Legislative Citation No. 162** was adopted without objection.

Representative A. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative A. Arnold moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Allen moved that he be recorded as voting "yea" on **HB 321**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ford moved that his vote be changed from "yea" to "nay" on **HB 717**. Agreed. Representative Ford moved that he be recorded as voting "yea" on **HB 86, HB 234, HB 311,** and **HB 433**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Sims moved that she be recorded as voting "nay" on **HB 562** and **HB 753**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **SB 149**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wayne moved that his vote be changed from "yea" to "nay" on **HB 562**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that her vote be changed from "yea" to "nay" on **HB 717**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed. Representative P. Clark moved that he be recorded as voting "nay" on **HB 627**. Agreed. Representative P. Clark moved that his vote be changed from "nay" to "yea" on **HCR 82**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Riggs moved that he be recorded as voting "nay" on **HB 562, HB 741,** and **HB 753**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 719**, Representative Vincent; **HB 864**, Representatives Hoffman, Crenshaw; **HR 111**, Representative Sims; **HB 866, HB 867, HB 868**, Representative Baugh.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 826**, by Representative Burch:

On page 7 , by deleting all text on lines 9, 10 and 11.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 16, 1998.

The motion that the House adjourn until 4:00 p.m., March 16, 1998 was adopted by voice vote.

MONDAY, MARCH 16, 1998

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chuck Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives D. Graham and Lovell.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 13, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 339** and **HB 459**. Message received on **HB 333**: The Senate has passed **HB 333** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 429**: The Senate has passed **HB 429** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Floor Amendments

Floor Amendment No. 1 to **HB 771**, by Representative Clarke:

On page 2, lines 9,10,and 11, by deleting the underlined language in its entirety and inserting in lieu thereof after "(4)", the following: "***Other provisions of KRS Chapters 243 and 244 notwithstanding, a small winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.***"; and

On page 3, lines 23,24, and 25, by deleting the underlined language in its entirety and inserting in lieu thereof after "(5)", the following: "***Other provisions of KRS Chapters 243 and 244 notwithstanding, a farm winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.***".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Health and Welfare: **SB 128**

Natural Resources and Environment: **HR 133**

Transportation: **SB 151**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **SB 261, SB 34, SB 363, SB 380, SB 355**

Banking and Insurance: **SB 337, SB 227**

Calendar

HB 882 and **HB 735** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 11 to **HB 735**, by Representative Yonts:

On page 6, after line 4 by adding the following section:

"Section 2. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, ***in addition to all other remedies provided under this chapter, the employee may seek all civil remedies available, and*** the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier."

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office and a Committee on Education meeting. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report and the Committee on Education report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 882** has been posted for passage in the Orders of the Day for March 17, 1998.

Report On Enrolled Bills

HB 31, HB 86, HB 234, HB 311, HB 399, HB 433, and **HB 517** delivered to the Senate and signed by the President. Delivered to the Governor on March 16, 1998 at 4:30 p.m.

Report of Committees (Continued)

The Committee on Education reported **HCR 131** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 131, A CONCURRENT RESOLUTION creating a Task Force on Public Education to review the status of elementary and secondary education in the Commonwealth.

WHEREAS, the General Assembly adopted the Kentucky Education Reform Act of 1990 in response to the 1989 Kentucky Supreme Court finding that the entire system of elementary and secondary education was unconstitutional; and

WHEREAS, it is the intent of the General Assembly to set high goals and standards at the state level based on the principle that all students can learn and most at high levels, provide flexibility at the school level to accomplish these goals, and hold schools and districts accountable for their achievement; and

WHEREAS, the 1998 General Assembly is considering legislation related to the concerns that have been raised about the clearness of the standards and whether the teaching of basic skills is sufficiently emphasized; the adequacy and appropriateness of the manner in which the goals and academic expectations are measured, including the use of a primarily performance-based system that requires students to apply their skills and to demonstrate their work in writing and mathematics; whether schools alone should be held responsible for student achievement; whether the consequences for schools and districts are fair using the present accountability system; whether the primary program is successful in raising student achievement in the early years; and whether the powers, duties, and responsibilities are assigned appropriately to the state, local boards of education, and school councils; and

WHEREAS, it is necessary to review the Program to Support Educational Excellence in Kentucky to assure that it is achieving the goals of equitable and adequate funding to promote high levels of student achievement, to review whether Kentucky's teachers are receiving adequate compensation for the high expectations set by the General Assembly, to determine whether the funding mechanism adequately meets the needs of rapidly growing school districts, to review the status of school facilities and the method of funding their construction, as well as the funding of all reform initiatives; and

WHEREAS, it is necessary to review the results of changes made in elementary and secondary education governance, including the confirmation of Kentucky Board of Education Board members, an appointed Commissioner of Education, a restructured Department of Education, regional service centers, efforts to eliminate nepotism and political interference, and the creation of an Office of Education Accountability to monitor reform implementation and to investigate allegations of waste, duplication, mismanagement, and political influence; and

WHEREAS, it is critical to review the efforts of higher education as a partner in the endeavor to improve the level of educational accomplishment in the Commonwealth, the efforts of the state's teacher preparation programs to prepare teachers to realize the vision of success at a higher level for all students, to review efforts allowing talented individuals to become teachers through alternative routes, and to review the Education Professional Standards Board, as a teacher-majority independent certification authority; and

WHEREAS, the General Assembly found in 1990 that public education involves shared responsibilities and that state government, local communities, parents, students, and school employees must work together to realize for all students the seven capacities outlined by the Supreme Court; and

WHEREAS, there is not a broad understanding of the elements of reform among the public, parents, local boards of education, education administrators, teachers, and students; and

WHEREAS, it is imperative that the legislative and executive branch of government work together to accomplish this most important analysis; and

WHEREAS, it has been eight years since the passage of the Education Reform Act and it is time to review progress and address any problems that may be identified;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) There is hereby established a Task Force on Public Education to review the implementation of the Kentucky Education Reform Act of 1990 and the current status of elementary and secondary education in the Commonwealth. Its membership shall include:

(a) Six (6) members appointed by the President of the Senate;

(b) Six (6) members appointed by the Speaker of the House of Representatives; and

(c) Six (6) members appointed by the Governor.

The co-chairs shall be named by the Legislative Research Commission.

(2) The Task Force shall review the status of elementary and secondary education to determine if progress is being made in the establishment of an efficient system of common schools. It shall also review curriculum, governance, and finance elements of elementary and secondary education. The Task Force shall consider the available research, analyze current data regarding student achievement, and gather information from students, parents, educators, professional organizations, employers, and the public in its review.

(3) The Task Force shall be authorized to contract for consultant services and expenses.

Section 2. The Task Force shall report its findings and recommendations to the Governor and the Legislative Research Commission no later than September 1, 1999.

Section 3. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Orders of the Day

HB 618, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 618**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 618**. Agreed. Representative Palumbo moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 618**. Agreed.

Representative Palumbo moved that **HB 618**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 16, 1998 roll call on **HB 618** - Appendix.) **HB 618**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 618**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 535, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 535** be passed.

Representative Yonts moved the adoption of Floor Amendment No. 5 to **HB 535**. Rejected.

Representative Crimm moved the adoption of Floor Amendment No. 4 to **HB 535**. Representative Collins inquired if Floor Amendment No. 4 to **HB 535** was a piggyback. The Speaker ruled that Floor Amendment No. 4 to **HB 535** was a piggyback. Representative Crimm moved that the rules be suspended to allow a vote on Floor Amendment No. 4. On the roll call to allow a vote on Floor Amendment No. 4 the vote was: Yeas 36, Nays 53 (See March 16, 1998, roll call on **HB 535** - Appendix.) The motion to suspend the rules to allow a vote on Floor Amendment No. 4 to **HB 535** was rejected.

Representative Anderson moved the adoption of Floor Amendment No. 7 to **HB 535**. On the roll call to adopt Floor Amendment No. 7 to **HB 535** the vote was: Yeas 10, Nays 74 (See March 16, 1998, roll call on **HB 535** - Appendix.) Floor Amendment No. 7 to **HB 535** were rejected.

Representative Damron moved the adoption of Floor Amendment No. 3 to **HB 535**. Agreed.

Representative Moberly moved that **HB 535**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 16, 1998 roll call on **HB 535** - Appendix.) **HB 535**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 535**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 608**. Agreed.

Representative Palumbo moved that **HB 608**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 45, Nays 44 (See March 16, 1998 roll call on **HB 608** - Appendix.) **HB 608**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 608**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 676, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Committee Amendment No. 1 to **HB 676**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 1 to **HB 676**. On the roll call on Floor Amendment No. 1 to **HB 676** the vote was: Yeas 65, Nays 19 (See March 16, 1998, roll call on **HB 676** - Appendix.) Floor Amendment No. 1 to **HB 676** was adopted.

Representative Gooch moved that **HB 676**, as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 13 (See March 16, 1998 roll call on **HB 676** - Appendix.) **HB 676**, as amended, was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 676**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 650, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of Committee Amendment No. 1 to **HB 650**. Agreed.

Representative Treesh moved that **HB 650**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 6 (See March 16, 1998 roll call on **HB 650** - Appendix.) **HB 650**, as amended, was passed and the title agreed to. Representative Treesh moved that the vote by which **HB 650**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 612, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 612**. Agreed.

Representative Gray moved that **HB 612**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 16, 1998 roll call on **HB 612** - Appendix.) **HB 612**, by way of Committee Substitute, was passed and the title agreed to. Representative Gray moved that the vote by which **HB 612**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 652, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 652**. Agreed.

Representative Palumbo moved that **HB 652**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 16, 1998 roll call on **HB 652** - Appendix. **HB 652**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 652**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 554, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved the adoption of the Committee Substitute to **HB 554**. Agreed.

Representative Crall moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 554**. Agreed.

Representative Jordan moved that **HB 554**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 8 (See March 16, 1998 roll call on **HB 554** - Appendix.) **HB 554**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 554**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 826**, by Representative Burch:

On page 7 , by deleting all text on lines 13, 14 and 15.

Orders of the Day (Continued)

HCR 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HCR 11** be adopted.

On the roll call the vote was: Yeas 97, Nays 0 (See March 16, 1998 roll call on **HCR 11** - Appendix.) **HCR 11** was adopted. Representative Rasche moved that the vote by which **HCR 11** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 15, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HCR 15**. Agreed.

Representative Stumbo moved that **HCR 15**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 16, 1998 roll call on **HCR 15** - Appendix.) **HCR 15** was adopted. Representative Stumbo moved the adoption of Committee Amendment No. 1 Title to **HCR 15**. Agreed; and the title was agreed to. Representative Stumbo moved that the vote by which **HCR 15**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ratliff moved that **HCR 16** be adopted.

On the roll call the vote was: Yeas 93, Nays 0 (See March 16, 1998 roll call on **HCR 16** - Appendix.) **HCR 16** was adopted. Representative Ratliff moved that the vote by which **HCR 16** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 17 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 17** be adopted.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HCR 17** - Appendix.) **HCR 17** was adopted. Representative Stumbo moved that the vote by which **HCR 17** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 810**, by Representative Vincent:

On page 1, line 4, after the word "***jailers***", delete the words "***who operate a full service or life safety jail***"; and

On page 1, line 9, after the word "***jailers***", delete the words "***who operate a full service or life safety jail***"; and

On page 1, line 17, after the word "***jailers***", delete the words "***who operate a full service or life safety jail***"; and

On page 2, line 2, after the word "***jailers***", delete the words "***who operate a full service or life safety jail***"; and

On page 3, line 14, after the word "***jailer***", delete the words "***who operates a full service or life safety jail***"; and

On page 7, line 2, after the word "***jailer***", delete the words "***who operates a full service or life safety jail***"; and

On page 8, line 6, place brackets around and strike through the numeral "(1)"; and

On page 8, line 6, after the word "***jailer***", delete the words "***who operates a full service or life safety jail***"; and

On page 8, line 9, place an opening bracket before "(2)", strike through "(2)", and delete the closing bracket; and

On page 8, line 27, remove the closing bracket from the "5" and place the closing bracket around the word "year." on page 9, line 2 at the end of the bill; and

On pages 8 and 9, strike through all language on page 8, line 27 through page 9, lines 1 and 2.

Orders of the Day (Continued)

HCR 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 18** be adopted.

On the roll call the vote was: Yeas 88, Nays 0 (See March 16, 1998 roll call on **HCR 18** - Appendix.) **HCR 18** was adopted. Representative Stumbo moved that the vote by which **HCR 18** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 20** be adopted.

On the roll call the vote was: Yeas 89, Nays 0 (See March 16, 1998 roll call on **HCR 20** - Appendix.) **HCR 20** was adopted. Representative Stumbo moved that the vote by which **HCR 20** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 561, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 561**.

Representative Worthington moved that the vote on **HB 561** be postponed indefinitely as provided under House Rule 18.

Representative Lindsay moved that **HB 561** be tabled. On the roll call to table **HB 561** the vote was: Yeas 51, Nays 43 (See March 16, 1998, roll call on **HB 561** - Appendix.) The motion that **HB 561** be tabled was adopted.

HB 666, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 666**. Agreed.

Representative Wilkey moved that **HB 666**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 3 (See March 16, 1998 roll call on **HB 666** - Appendix.) **HB 666**, by way of Committee Substitute, was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 666**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 702, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 702** be passed.

On the roll call the vote was: Yeas 92, Nays 2 (See March 16, 1998 roll call on **HB 702** - Appendix.) **HB 702** was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 702** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 746 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **HB 746** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 16, 1998 roll call on **HB 746** - Appendix.) **HB 746** was passed and the title agreed to. Representative Haydon moved that the vote by which **HB 746** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 459** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:45 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 177**, by Representative Heleringer:

On page 19, after line 27 by adding the following section:

"Section 14. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge or arbitrator pursuant to the statutes and administrative regulations.

(2) Attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent (20%) of the award not to exceed ***three*** [~~two~~] thousand ***five hundred*** dollars ***($3,500)*** [~~($2,000)~~] for services performed up to and including the date of a written determination by the arbitrator. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b) Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.

(c) Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall fix an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under paragraphs (a) and (b) of this subsection.

(d) Attorney-client employment contracts entered into and signed prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996, shall not be subject to the conditions of paragraphs (a), (b), and (c) of this subsection, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply.

(3) In approving an allowance of attorney's fees, the administrative law judge or arbitrator shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court. The date of injury or last exposure shall control the applicable maximum attorney's fee.

(4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the arbitrator or administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the written determination of an arbitrator or last appealable order of an administrative law judge. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The arbitrator or administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge and arbitrator shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the arbitrator or administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the arbitrator or administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(b) of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge or arbitrator in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the same limitations as to maximum fees at each level except that fees for representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed ***three*** [~~two~~] thousand ***five hundred*** dollars ***($3,500)*** ($2,000). Fees for representing employers shall not be dependent upon the result achieved. Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter."; and

On page 20, line 1 by renumbering "Section 14" as "Section 15".

Floor Amendment No. 2 to **SB 177**, by Representative Heleringer:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge or arbitrator pursuant to the statutes and administrative regulations.

(2) Attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent (20%) of the award not to exceed two thousand dollars ($2,000) for services performed up to and including the date of a written determination by the arbitrator. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b) Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.

(c) Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall fix an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under paragraphs (a) and (b) of this subsection.

(d) Attorney-client employment contracts entered into and signed prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996, shall not be subject to the conditions of paragraphs (a), (b), and (c) of this subsection, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply.

(3) In approving an allowance of attorney's fees, the administrative law judge or arbitrator shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court. The date of injury or last exposure shall control the applicable maximum attorney's fee.

(4) No attorney's fee ***in excess of one thousand dollars ($1,000)*** in any case involving benefits under this chapter shall be paid until the fee is approved by the arbitrator or administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee ***in excess of one thousand ($1,000)*** shall be submitted within thirty (30) days following finality of the written determination of an arbitrator or last appealable order of an administrative law judge. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The arbitrator or administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge and arbitrator shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the arbitrator or administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the arbitrator or administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall

be allowed or approved exceeding the amounts provided in subsection (2)(b) of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge or arbitrator in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the same limitations as to maximum fees at each level except that fees for representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed two thousand dollars ($2,000). Fees for representing employers shall not be dependent upon the result achieved. Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter."; and

On page 20, line 1, by renumbering "Section 14" as "Section 15".

Orders of the Day (Continued)

HB 765, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 765**. Agreed.

Representative Moberly moved that **HB 765**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 16, 1998 roll call on **HB 765** - Appendix.) **HB 765**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 765**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 785, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 785**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 785**. Agreed.

Representative Nunn moved that **HB 785**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 16, 1998 roll call on **HB 785** - Appendix.) **HB 785**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 785**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 853 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved that **HB 853** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HB 853** - Appendix.) **HB 853** was passed and the title agreed to. Representative J. Arnold moved that the vote by which **HB 853** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 796, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of the Committee Substitute to **HB 796**. Agreed.

Representative Reinhardt moved that **HB 796**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 16, 1998 roll call on **HB 796** - Appendix.) **HB 796**, by way of Committee Substitute, was passed and the title agreed to. Representative Reinhardt moved that the vote by which **HB 796**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 97 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HCR 97** be adopted.

On the roll call the vote was: Yeas 93, Nays 0 (See March 16, 1998 roll call on **HCR 97** - Appendix.) **HCR 97** was adopted. Representative Bowling moved that the vote by which **HCR 97** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 118 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HJR 118** be adopted.

On the roll call the vote was: Yeas 93, Nays 0 (See March 16, 1998 roll call on **HJR 118** - Appendix.) **HJR 118** was adopted. Representative Mason moved that the vote by which **HJR 118** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HCR 126** be adopted.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HCR 126** - Appendix.) **HCR 126** was adopted. Representative Mason moved that the vote by which **HCR 126** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 3, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 3**. Agreed.

Representative L. Clark moved that **HB 3**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 16, 1998 roll call on **HB 3** - Appendix.) **HB 3**, by way of Committee Substitute, was passed and the title agreed to. Representative L. Clark moved that the vote by which **HB 3**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 253** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 16, 1998 roll call on **HB 253** - Appendix.) **HB 253** was passed and the title agreed to. Representative Hatcher moved that the vote by which **HB 253** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 536, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 536**. Agreed.

Representative Moberly moved that **HB 536**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 16, 1998 roll call on **HB 536** - Appendix.) **HB 536**, by way of Committee Substitute, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 536**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 891 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 891** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 16, 1998 roll call on **HB 891** - Appendix.) **HB 891** was passed and the title agreed to. Representative Heleringer moved that the vote by which **HB 891** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 551, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 551**. Agreed.

Representative Moberly moved that **HB 551**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 2 (See March 16, 1998 roll call on **HB 551** - Appendix.) **HB 551**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 551**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 566, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the rules be suspended to consider **HB 566**.

On the roll call to consider **HB 566** the vote was: Yeas 78, Nays 11 (See March 16, 1998, roll call on - Appendix.) The motion to suspend the rules to consider **HB 566** was adopted.

Representative D. Butler moved the adoption of the Committee Substitute to **HB 566**. Agreed.

Representative D. Butler moved that **HB 566**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 66, Nays 24 (See March 16, 1998 roll call on **HB 566** - Appendix.) **HB 566**, by way of Committee Substitute, was passed and the title agreed to. Representative D. Butler moved that the vote by which **HB 566**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 567, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 567**. Agreed.

Representative Gray moved that **HB 567**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 67, Nays 26 (See March 16, 1998 roll call on **HB 567** - Appendix.) **HB 567**, by way of Committee Substitute, was passed and the title agreed to. Representative Gray moved that the vote by which **HB 567**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 583**. Agreed.

Representative Hoffman moved that **HB 583**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 16, 1998 roll call on **HB 583** - Appendix.) **HB 583**, by way of Committee Substitute, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 583**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro-Tempore L. Clark assumed the Chair.

HB 594, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of the Committee Substitute to **HB 594**. Agreed.

Representative Crenshaw moved that **HB 594**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 1 (See March 16, 1998 roll call on **HB 594** - Appendix.) **HB 594**, by way of Committee Substitute, was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 594**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 630, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of the Committee Substitute to **HB 630**. Agreed.

Speaker Richards resumed the Chair.

Representative Crenshaw moved that **HB 630**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 79, Nays 14 (See March 16, 1998 roll call on **HB 630** - Appendix.) **HB 630**, by way of Committee Substitute, was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 630**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 704, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 704**. Agreed.

Representative Damron moved that **HB 704**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 16, 1998 roll call on **HB 704** - Appendix.) **HB 704**, by way of Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 704**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 706 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved that **HB 706** be passed.

On the roll call the vote was: Yeas 68, Nays 24 (See March 16, 1998 roll call on **HB 706** - Appendix.) **HB 706** was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 706** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 724, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to **HB 724**. Agreed.

Representative Lindsay moved that **HB 724**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 9 (See March 16, 1998 roll call on **HB 724** - Appendix.) **HB 724**, as amended, was passed and the title agreed to. Representative Lindsay moved that the vote by which **HB 724**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 738, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved the adoption of the Committee Substitute to **HB 738**. Agreed.

Representative Jordan moved that **HB 738**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 56, Nays 30 (See March 16, 1998 roll call on **HB 738** - Appendix.) **HB 738**, by way of Committee Substitute, was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 738**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 780, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 780**. Agreed.

Representative Palumbo moved that **HB 780**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 55, Nays 25 (See March 16, 1998 roll call on **HB 780** - Appendix.) **HB 780**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 780**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 911, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 911**. Agreed.

Representative Palumbo moved that **HB 911**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 0 (See March 16, 1998 roll call on **HB 911** - Appendix.) **HB 911**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 911**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 801, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Allen moved the adoption of the Committee Substitute to **HB 801**. Agreed.

Representative Allen moved that **HB 801**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See March 16, 1998 roll call on **HB 801** - Appendix.) **HB 801**, by way of Committee Substitute, was passed. Representative Allen moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 801**. Agreed; and the title was agreed to. Representative Allen moved that the vote by which **HB 801**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 805, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved that **HB 805** be passed.

On the roll call the vote was: Yeas 82, Nays 9 (See March 16, 1998 roll call on **HB 805** - Appendix.) **HB 805** was passed and the title agreed to. Representative Miller moved that the vote by which **HB 805** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 556 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 556** be passed.

On the roll call the vote was: Yeas 84, Nays 0 (See March 16, 1998 roll call on **HB 556** - Appendix.) **HB 556** was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 556** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 810, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 810**. Agreed.

Representative P. Clark moved that **HB 810**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 56, Nays 32 (See March 16, 1998 roll call on **HB 810** - Appendix.) **HB 810**, by way of Committee Substitute, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 810**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 784 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 784** be passed.

On the roll call the vote was: Yeas 86, Nays 1 (See March 16, 1998 roll call on **HB 784** - Appendix.) **HB 784** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 784** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 815 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 815** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HB 815** - Appendix.) **HB 815** was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 815** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 857 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved that **HB 857** be passed.

On the roll call the vote was: Yeas 87, Nays 1 (See March 16, 1998 roll call on **HB 857** - Appendix.) **HB 857** was passed and the title agreed to. Representative Alexander moved that the vote by which **HB 857** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 859, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved the adoption of the Committee Substitute to **HB 859**. Agreed.

Representative Alexander moved that **HB 859**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 2 (See March 16, 1998 roll call on **HB 859** - Appendix.) **HB 859**, by way of Committee Substitute, was passed and the title agreed to. Representative Alexander moved that the vote by which **HB 859**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 900, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HB 900**. Agreed.

Representative Riner moved that **HB 900**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 5 (See March 16, 1998 roll call on **HB 900** - Appendix.) **HB 900**, by way of Committee Substitute, was passed and the title agreed to. Representative Riner moved that the vote by which **HB 900**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 920, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ratliff moved the adoption of the Committee Substitute to **HB 920**. Agreed.

Representative Ratliff moved that **HB 920**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 16, 1998 roll call on **HB 920** - Appendix.) **HB 920**, by way of Committee Substitute, was passed and the title agreed to. Representative Ratliff moved that the vote by which **HB 920**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 89, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Amendment No. 1 to **HJR 89**. Agreed.

Representative Brown moved that **HJR 89**, as amended, be adopted.

On the roll call the vote was: Yeas 88, Nays 0 (See March 16, 1998 roll call on **HJR 89** - Appendix.) **HJR 89**, as amended, was adopted. Representative Brown moved the adoption of Committee Amendment No. 2 Title to **HJR 89**. Agreed; and the title was agreed to. Representative Brown moved that the vote by which **HJR 89**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 94 taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HCR 94** be adopted.

On the roll call the vote was: Yeas 89, Nays 0 (See March 16, 1998 roll call on **HCR 94** - Appendix.) **HCR 94** was adopted. Representative Barrows moved that the vote by which **HCR 94** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 96, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HCR 96**. Agreed.

Representative Wayne moved that **HCR 96**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 75, Nays 10 (See March 16, 1998 roll call on **HCR 96** - Appendix.) **HCR 96**, by way of Committee Substitute, was adopted. Representative Wayne moved that the vote by which **HCR 96**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 177**, by Representative Jenkins:

On page 19, after line 27 by adding the following section:

"Section 14. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:

- (a) Fraud;
- (b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;
- (c) Mistake; and
- (d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work, no claim shall be reopened more than four (4) years following the date of the original award or order granting or denying benefits, or within two (2) years of such award or order, and no party may file a motion to reopen within two (2) years of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon

reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

(9) ***Notwithstanding the provisions of this chapter to the contrary, an arbitrator or administrative law judge who issued a decision, order, or award on a claim shall not conduct a review or render a decision, order, or award on the same claim that has been reopened for medical purposes authorized in this section, unless the reopening was initiated as a result of the arbitrator's or administrative law judges's own motion.*** "; and

On page 20, line 1 by renumbering "Section 14" as "Section 15".

Orders of the Day (Continued)

HCR 125, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of Floor Amendment No. 1 to **HCR 125**. Agreed.

Representative Ratliff moved that **HCR 125**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HCR 125** - Appendix.) **HCR 125**, as amended, was passed. Representative Ratliff moved the adoption of Floor Amendment No. 2 Title to **HCR 125**. Agreed; and the title was agreed to. Representative Ratliff moved that the vote by which **HCR 125**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 255, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 255**. Agreed. Representative Stein moved the adoption of Committee Amendment No. 2 to the Committee Substitute to **HB 255**. Agreed.

Representative Mason moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 255**. Agreed. Representative Mason moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 255**. Agreed. Representative Mason moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 255**. Agreed.

Representative Stein moved that **HB 255**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 16, 1998 roll call on **HB 255** - Appendix.) **HB 255**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 255**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 532, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of the Committee Substitute to **HB 532**. Agreed.

Representative Curd moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 532**. Agreed.

Representative Curd moved that **HB 532**, by way of Committee Substitute as amended, be passed.

Representative Colter moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 532**. Agreed.

Representative Curd moved that **HB 532**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See March 16, 1998 roll call on **HB 532** - Appendix.) **HB 532**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Curd moved that the vote by which **HB 532**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 646, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length . Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved the adoption of the Committee Substitute to **HB 646**. Agreed.

Representative Horlander moved that **HB 646**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 16, 1998 roll call on **HB 646** - Appendix.) **HB 646**, by way of Committee Substitute, was passed and the title agreed to. Representative Horlander moved that the vote by which **HB 646**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 899, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hogancamp moved the adoption of the Committee Substitute to **HB 899**. Agreed.

Representative Hogancamp moved that **HB 899**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 16, 1998 roll call on **HB 899** - Appendix.) **HB 899**, by way of Committee Substitute, was passed and the title agreed to. Representative Hogancamp moved that the vote by which **HB 899**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 813, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved the adoption of the Committee Substitute to **HB 813**. Agreed.

Representative Johns moved that **HB 813**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 16, 1998 roll call on **HB 813** - Appendix.) **HB 813**, by way of Committee Substitute, was passed and the title agreed to. Representative Johns moved that the vote by which **HB 813**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 519**. Agreed.

Representative Rasche moved that **HB 519**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 16, 1998 roll call on **HB 519** - Appendix.) **HB 519**, by way of Committee Substitute, was passed and the title agreed to. Representative Rasche moved that the vote by which **HB 519**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 92, with Committee Substitute, Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of the Committee Substitute to **HJR 92**. Agreed.

Representative Marcotte moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HJR 92**. Agreed.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HJR 92**. Agreed.

Representative Worthington moved that **HJR 92**, by way of Committee Substitute as amended, be passed.

Representative L. Clark moved that **HJR 92** be laid on the Clerk's Desk. Agreed.

HJR 115 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ratliff moved that **HJR 115** be adopted.

On the roll call the vote was: Yeas 92, Nays 0 (See March 16, 1998 roll call on **HJR 115** - Appendix.) **HJR 115** was adopted. Representative Ratliff moved that the vote by which **HJR 115** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the posting be waived retroactively on **HCR 131**. Agreed.

Representative Stumbo moved that the posting be waived on **HR 130**. Agreed.

Representative Stumbo moved that **SB 21** be reassigned to Appropriations and Revenue and that the posting be waived on same. Agreed.

Representative Stumbo moved that **HB 297, HB 696,** and **HB 786** be posted for passage in the Orders of the Day. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 343, SB 353**

Health and Welfare: **HR 130, SB 228**

Education: **HCR 131, SB 133, SB 230, SB 186, SB 303**

Natural Resources and Environment: **SB 300, SB 311, SB 313, SB 318**

Motions, Petitions and Communications (Continued)

Representative Palumbo moved the adoption of the following **Legislative Citation No. 163**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory of Dorothy Nickell Jordan. The House of Representatives joins Representative Ruth Ann Palumbo in expressing its deepest sympathy to all who share in the great loss on the passing of this extraordinary lady, widow of Raymond Johnson Jordan; beloved daughter of the late Dr. James Thomas and Mary Elizabeth Nickell; adoring mother of Jim Jordan; cherished sister of Paul Nickell and Lurline Fischer; and the doting grandmother of three grandchildren. A woman who contributed greatly to her community, she had been the Cincinnati Reds ticket agent for central Kentucky and a faithful employee of Graves Cox. Dotti Jordan was born and raised in Lexington, Kentucky and was a member of the Broadway Christian Church, the Southland Christian Church, the Lexington Women's Club, the University of Kentucky Faculty Club and the University of Kentucky Alumni Association. The Kentucky House of Representatives is honored on this day to lovingly remember Dorothy Nickell Jordan and to express our deepest condolences to her family and friends. **Legislative Citation No. 163** was adopted without objection.

Representative L. Clark moved the adoption of the following **Legislative Citation No. 164**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in reverent memory of Robert Frerman and express deepest sympathy to all who mourn the untimely passing of this extraordinary man, beloved husband of Terry Frerman; adored father of two daughters; cherished brother of one sister and two brothers; and loving grandfather of one grandchild. An honorable Vietnam veteran, Bobby Joe Frerman served with great distinction in the U.S. Marine Corps and was a retired employee of the Naval Ordnance Station. He was a valued member of the Board of the Executive Committee of the Kentucky Vietnam Veterans Memorial Fund and played an integral part in assisting labor unions and others reach the goals of the Fund. Mr. Frerman was a project manager for Raytheon Missile System Co. and the owner of the Clarksville Flower and Gift Shop. He was a member of the advisory boards of Hillebrand House, Puritan Apartments and The Kling Center, among others, and was also a member of the American Legion, Post 193. The members of this august body do hereby join with Representative Larry Clark in extending deepest sentiments of solace and regret to the family, friends and colleagues of this distinguished gentleman of the Commonwealth and in adjourning this legislative day in tribute to the sterling legacy he left behind. **Legislative Citation No. 164** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 4 to **882**, by Representative Stine:

On page 29, between lines 6 and 7, by inserting the following:

"Section 20. KRS 160.597 is amended to read as follows:

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

(1) ***Except as provided in paragraphs (a) and (b),*** the order or resolution levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage.

(a) The board of education in its discretion, may ask the county clerk to place the order or resolution of tax before the voters for approval; or

(b) [~~If,~~] During the thirty (30) days immediately following the passage of the order or resolution, a petition signed by a number of registered and qualified voters equal to fifteen percent (15%), except in counties containing a city of the first class, equal to five percent (5%), of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the county clerk requesting that the order or resolution of the tax be placed before the voters for approval***. This***[~~, the~~] order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. The person presenting the petition shall be given a receipt indicating the date of presentation. Each sheet of the petition shall contain the names, residence addresses, Social Security numbers, or dates of birth of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number, or designation of the district or ward wherein the precinct is situated. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One (1) or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The county clerk shall make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution, and immediately shall notify the school board that the petition has been received and that the order or resolution levying the tax will be placed before the voters for approval. The county clerk shall certify to the school board within thirty (30) days of receipt of the petition that the petition is properly presented and in compliance with the provisions of this section. If the county clerk finds the petition to be invalid, it shall state in writing the deficiency of said petition. Written notification that the petition has been declared invalid and the deficiencies thereof shall be sent by certified mail to the person to whom a receipt was given by the county clerk, and shall be published at least one (1) time in a newspaper of general circulation within the county containing the school district levying the tax, or if there be no such newspaper, shall be posted at the courthouse door. If good cause is shown, the county clerk shall permit the petitioners to correct the deficiencies either by securing additional valid signatures or by circulating a new petition, the petition to be submitted to the county clerk within thirty (30) days from the date of the written notification of the deficiencies.

(2) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county clerk shall submit the question to the voters of the school district at the next regular election or a called common school election, either of which is to be held not less than sixty (60) days from the date of the passage of the order or resolution. If the election is to be held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district upon the question oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district upon the question favor its passage, the order or resolution shall go into effect in that district. If the election is to be held in more than one (1) school district within a county, the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

[~~(3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.~~]"; and

By renumbering the subsequent sections.

Motions, Petitions and Communications (Continued)

Representative Stein moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stein moved that she be recorded as voting "yea" on **HB 646, HB 899, HB 813,** and **HB 519**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "yea" on **HB 765,** and **HB 815**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 519**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 815**. Agreed.

Representative A. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative A. Arnold moved that he be recorded as voting "yea" on **HB 532**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that her vote be changed from "nay" to "yea" on **HB 857**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Baugh moved that he be recorded as voting "yea" on **HCR 96**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wayne moved that his vote be changed from "yea" to "nay" on **HB 784**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Anderson moved that he be recorded as voting "yea" on **HB 618**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that his vote be changed from "nay" to "yea" on **HB 554**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that his vote be changed from "nay" to "yea" on **HB 630**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Coleman moved that his vote be changed from "yea" to "nay" on **HB 562**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that his vote be changed from "yea" to "nay" on **HB 667**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that his vote be changed from "nay" to "yea" on **HB 566**. Agreed.

Representative Maricle moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Maricle moved that he be recorded as voting "yea" on **HB 652**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ratliff moved that he be recorded as voting "yea" on **HB 554, HB 652,** and **HCR 20**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **HB 859, HB 900, HB 920, HJR 89, HCR 94,** and **HCR 96**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 243**, Representative Riggs; **HB 519**, Representative Palumbo; **HB 567**, Representative Worthington; **HB 583, HB 775**, Representative Johns; **HB 738**, Representative Marzian.

Announcements

The following meetings were announced:

Appropriations and Revenue, 10:00 a.m., March 17, 1998; Judiciary, March 17, 1998, 10:00 a.m., Room 131; State Government, Noon, Room 131.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 17, 1998.

On the roll call the vote was **Yeas 65**--J. Adams, R. Adams, Adkins, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Burch, D. Butler, D. D. Butler, Callahan, L. Clark, P. Clark, Collins, Colter, Crenshaw, Damron, Geveden, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marzian, Mason, Moberly, Murgatroyd, Napier, Nesler, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wilkey, Worthington, Yonts, Zimmerman. **Nays 9**--Bratcher, Cave, Crall, Gooch, Hoover, Horlander, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

TUESDAY, MARCH 17, 1998

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Roger Newell, Parkview United Methodist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative D. Graham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 16, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 282, SB 392, HB 344,** and **HB 387**. (Time: 2:10 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Banking and Insurance: **SB 339**

Report of Committees

The Committee on Health and Welfare reported **HR 130, SB 72, SB 328,** with Committee Substitute and Committee Amendment attached thereto, and **SB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 130, A RESOLUTION in support of liver transplantation in the Commonwealth of Kentucky.

WHEREAS, the present system for the allocation and distribution of human organs for transplantation has been designed by the consensus of a great majority of transplant professionals to serve the interests of the vast majority of patients awaiting transplants; and

WHEREAS, the Secretary of the United States Department of Health and Human Services has recently indicated a desire to unilaterally alter this system to the apparent benefit of a small number of transplant centers; and

WHEREAS, the anticipated changes would adversely affect the health and well-being of the citizens of the Commonwealth of Kentucky awaiting liver transplants by denying them lifesaving transplants or forcing them to travel and reside far from home and out-of-state at extraordinary expense, and by denying them the care currently being provided by transplant centers in our Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky expresses dismay, and requests the Secretary of the United States Department of Health and Human Services to withhold this action.

Section 2. The House of Representatives affirms its confidence in the allocation system which gives priority to the use of organs donated by citizens of the Commonwealth of Kentucky to provide lifesaving transplants to other citizens of the Commonwealth in need.

Section 3. The House of Representatives of the Commonwealth of Kentucky will consider legislative remedies if needed to prevent the implementation of a system of organ allocation in which the citizens of the Commonwealth of Kentucky would be unfairly disadvantaged.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Donna Shalala, Secretary, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201.

SB 72, AN ACT relating to Citizen Foster Care Review Boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the biological family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

  (a) Removed from his parents or person exercising custodial control or supervision and subsequently placed in the custody of the cabinet; and

  (b) Placed in a foster home or private child-caring facility or child-placing agency but remains under the supervision of the cabinet;

(5) "Local ***citizen*** foster care review board" means a citizen board which provides periodic permanency reviews of children placed in the custody of the cabinet by a court order of temporary custody or commitment under this chapter;

(6) "Multidisciplinary teams" means local teams operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse pursuant to KRS 431.600;

(7) "Permanence" means a relationship between a child and an adult which is intended to last a lifetime, providing commitment and continuity in the child's relationships and a sense of belonging;

(8) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(9) "Reasonable efforts" means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home;

(10) "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(11) "State ***citizen*** foster care review board" means a board created by KRS 620.310.

Section 2. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect, or abuse action may be commenced by the filing of a petition by any interested person in the juvenile session of the District Court.

(2) After a petition has been filed, the clerk of the court shall issue, and the sheriff or other authorized agent shall serve, a copy of the petition and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be served on the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the petition and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time, and place when the parent or other person exercising custodial control or supervision is to appear before the court. The summons shall include written notification that the case may be reviewed by a local ***citizen*** foster care review board and the report of the board review shall become part of the court record.

Section 3. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district a ***citizen*** foster care review board to be appointed by the Chief District Judge ***or family court judge***. The Chief District Judge ***or family court judge*** may authorize the creation of additional local ***citizen*** foster care review boards as needed.

(2) Each local ***citizen*** foster care review board shall consist of not less than three (3) members and shall be appointed according to the following guidelines:

  (a) All members shall have an interest in foster care or child welfare;

  (b) At least two (2) members of each local ***citizen*** foster care review board shall, as far as practicable, be chosen from among the following professions: law, medicine, psychology, social work, and education;

(c) Each local ***citizen*** foster care review board shall, as far as practicable, include a foster parent;

(d) All members of each local ***citizen*** foster care review board shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served;

(e) Employees of the cabinet shall be prohibited from serving on the local ***citizen*** foster care review board;

(f) All appointed board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August 1 of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed; and

(g) All members shall be certified prior to appointment by the state ***citizen*** foster care review board or its designee. For the purposes of this section, "certified" means acknowledgment of completion of initial training approved by the state ***citizen*** foster care review board.

(3) Local ***citizen*** foster care review board members may be removed for nonparticipation, failure to meet training requirements, or other cause as determined by the state ***citizen*** foster care review board in compliance with its constitution and bylaws.

(4) Each local ***citizen*** foster care review board shall annually elect a chairman and vice chairman to serve in the absence of the chairman.

(5) Each local ***citizen*** foster care review board shall meet, at a place designated by the Chief District Judge ***or family court judge***, as often as is deemed necessary to carry out the duties of the board. The local ***citizen*** foster care review board shall meet no less than four (4) times annually.

Section 4. KRS 620.200 is amended to read as follows:

(1) Secretarial and support services for each local ***citizen*** foster care review board may be provided by the District Court, or circuit clerk, or both, as ordered by the Chief District Judges ***or family court judges***.

(2) Local ***citizen*** foster care review boards may receive state and federal funding to insure total or partial funding of the board's activities.

Section 5. KRS 620.210 is amended to read as follows:

(1) Training shall be established, approved, and provided by the state ***citizen*** foster care review board and its staff as provided by KRS 620.320.

(2) During the training session, each local ***citizen*** foster care review board member shall promise by oath given by the Chief District Judge ***or family court judge*** or a member of the court of justice to keep confidential the information reviewed by the board and its actions and recommendations in individual cases pursuant to the authority mandated to other officers of the court in KRS Chapter 522. Members of the local ***citizen*** foster care review boards shall be subject to the same penalties as officers of the court pursuant to KRS Chapter 522.

Section 6. KRS 620.220 is amended to read as follows:

(1) The clerk of the court shall forward to the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program a copy of each temporary custody order and commitment order on the form prescribed by the Administrative Office of the Courts within fourteen (14) days of the date the order is issued.

(2) When a child is voluntarily committed to the cabinet, the cabinet shall forward a copy of the placement agreement to the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program within fourteen (14) days of the time the child is placed.

Section 7. KRS 620.230 is amended to read as follows:

(1) For each child placed in the custody of the cabinet by an order of commitment, the cabinet shall file a case permanency plan for the child with the court and send a copy to the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program as soon as the plan is prepared but no later than thirty (30) days after the effective date of the order. Notwithstanding the provisions of KRS 620.090(5), if a child remains in the temporary custody of the cabinet for longer than forty-five (45) days and if a request is submitted by the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program, the cabinet shall provide a copy of the case permanency plan for the child.

(2) The case permanency plan shall include, but need not be limited to:

(a) A concise statement of the reasons why the child is in the custody of the cabinet;

(b) A statement of the actions which have been taken with regard to the child to the date of the plan;

(c) A statement of the proposed actions which may be taken or are contemplated with regard to the child during the next six (6) months and during the entire duration of the time the child is in the custody of the cabinet;

(d) Contemplated placements for the child;

(e) If the child is placed outside the home, reasons why the child cannot be protected adequately in the home, the harms the child may suffer if left in the home, factors which may indicate when the child can be returned to the home, and efforts the cabinet or others are making to return the child to the home;

(f) If the child is placed outside the home, the steps that the cabinet will take to minimize the harm to the child as a result of the action, both at the time of removal and on a long-term basis;

(g) A description of the type of home, child-caring facility, child-placing agency or facility in which the child is to be placed or has been placed, and a statement why the placement is appropriate for the child, including but not limited to:

  1. Age;
  2. Educational needs;
  3. Medical needs;
  4. Emotional needs;
  5. Relationship with parents; and
  6. Number of children the home is authorized to care for and the number of children currently residing in the home;

(h) If the placement is outside the child's original county of residence, documentation that no closer placement is appropriate or available, and the reasons why the placement made was chosen;

(i) A description of the services for the child and his family to be provided or arranged by the cabinet to facilitate the return of the child to his own home or to another permanent placement;

(j) A list of objectives and specific tasks, together with specific time frames for each task, for which the parents have agreed to assume responsibility, including a schedule of regular visits with the child;

(k) A projected schedule of time intervals by which each of the services, objectives, and tasks outlined in the case permanency plan should be accomplished and a schedule of time intervals which have already been accomplished or are in the process of accomplishment;

(l) If the child is to remain at home, a description of the potential harm which could befall the child and measures that are being taken to prevent or minimize such harm; and

(m) If the child is to remain at home, reasons why he cannot be placed in foster care or why such care is not needed.

Section 8. KRS 620.240 is amended to read as follows:

The cabinet shall file for each child a case progress report at least once every six (6) months with the court and the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program. The first case progress report after the child is placed in the custody of the cabinet by an order of temporary custody or commitment shall be mailed to the Administrative Office of the Courts ***Citizen*** Foster Care Review Board Program and subsequent case progress reports shall be provided to the local ***citizen*** foster care review board within the case file. The case progress report shall include but is not limited to:

(1) The length of time the child has been in the custody of the cabinet;

(2) The number, location, and date for each placement during the time the child has been in the custody of the cabinet;

(3) A description of the services and assistance provided or arranged by the cabinet to the parents since the last case permanency plan or case progress report, and results achieved;

(4) A description of the efforts and progress of the parents since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parents' communication with the child;

(5) The barriers, familial and institutional, to returning the child home or releasing the child from the custody of the cabinet and services that are not currently available in the community;

(6) An evaluation of the child's current placement and services provided to the child;

(7) Recommendations for necessary services required to release the child from the custody of the cabinet, to return the child home, or to facilitate another permanent placement;

(8) A timetable for the child's return home or other permanent placement; and

(9) If return home is not recommended, a specific recommendation for a permanent placement, including termination of parental rights if appropriate. If continued foster care is recommended, an explanation as to why another permanent placement is not appropriate.

Section 9. KRS 620.250 is amended to read as follows:

(1) Each local ***citizen*** foster care review board shall have access to all information and records of the cabinet pertinent to the parents or person exercising custodial control or supervision of the child assigned to the local board for review. Information and records shall include, but not be limited to, case permanency plans, case progress reports, and case records.

(2) Each local ***citizen*** foster care review board shall have access to all information and records of the court, the cabinet, and public and private child-caring facilities when pertinent to the child assigned to the local board for review. Information and records shall include, but not be limited to, case permanency plans, case progress reports, and case records.

(3) All requested information or records, or both, not already before the local ***citizen*** foster care review board at the time of the six (6) months review shall be submitted by the agency or organization in possession of the information or records, or both, no later than five (5) working days after the receipt of the request.

(4) If the local ***citizen*** foster care review board is denied access to any public or private information or records, or both, it may request the court to hold a hearing, at which time the court may require the agency or organization in whose possession the information or records, or both, are held to show cause as to the reasons why the information or records, or both, shall not be ordered surrendered pursuant to its authority.

Section 10. KRS 620.260 is amended to read as follows:

Local ***citizen*** foster care review board members who have a conflict of interest shall not participate in such review.

Section 11. KRS 620.270 is amended to read as follows:

(1) Subject to the provisions of KRS 620.230, the local ***citizen*** foster care review board shall review the case of each child placed in the custody of the cabinet by an order of temporary custody or commitment by the court in the county or counties which the local board serves. The review shall occur at least once every six (6) months until the child is no longer in the custody of the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local ***citizen*** foster care review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, case progress reports submitted by the cabinet, and other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board determine to be explored with regard to the best interests of the state or of the child.

(3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Social Services and approved by the state review board in regard to child sexual abuse, the local ***citizen*** foster care review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

Section 12. KRS 620.280 is amended to read as follows:

Each local ***citizen*** foster care review board may request in writing employees of the cabinet or other agencies or organizations, on five (5) working days' notice, to appear at local board meetings when necessary to determine the progress made in placing the child in a permanent home. Should an employee fail to appear at such a meeting, the local ***citizen*** foster care review board may request that the court hold a hearing at which time the court, if the request for the hearing is granted, shall require the employee to show cause as to why he should not be compelled to appear.

Section 13. KRS 620.290 is amended to read as follows:

The local ***citizen*** foster care review board shall submit to the court within fourteen (14) days of the six (6) month review its findings and recommendations. The findings and recommendations for each child under review shall include but need not be limited to:

(1) Whether there is a plan for permanence;

(2) Whether the plan is progressing; and

(3) The appropriateness of the current placement or plan for permanence.

Section 14. KRS 620.310 is amended to read as follows:

(1) There is hereby established a State ***Citizen*** Foster Care Review Board. The State ***Citizen*** Foster Care Review Board shall

consist of all chairmen of the local foster care review boards.

(2) The State ***Citizen*** Foster Care Review Board shall annually elect a chairman and vice chairman to serve in the absence of the chairman.

(3) The State ***Citizen*** Foster Care Review Board shall meet at least annually, and more frequently upon the call of the chairman, or as the board shall determine.

(4) Members of the State ***Citizen*** Foster Care Review Board may only receive compensation for travel mileage cost and overnight lodging at a rate consistent with that provided to state employees as provided under the law of the Commonwealth.

Section 15. KRS 620.320 is amended to read as follows:

The duties of the State ***Citizen*** Foster Care Review Board shall be to:

(1) Establish, approve, and provide training programs for local ***citizen*** foster care review board members;

(2) Review and coordinate the activities of local ***citizen*** foster care review boards;

(3) Establish reporting procedures to be followed by the local ***citizen*** foster care review boards and to provide information on the effectiveness of such local ***citizen*** foster care review boards; and

(4) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Legislative Research Commission regarding:

  (a) Laws of the Commonwealth;

  (b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement and the investigation of allegations of abuse and neglect; and

  (c) The effectiveness or lack thereof and reasons therefor of local ***citizen*** foster care review of children in the custody of the cabinet in bringing about permanence for the Commonwealth's children.

Section 16. KRS 620.330 is amended to read as follows:

(1) Secretarial and support services for the State ***Citizen*** Foster Care Review Board may be provided by the Administrative Office of the Courts.

(2) The State ***Citizen*** Foster Care Review Board may receive state and federal funds to insure total or partial funding of the board's activities.

Section 17. KRS 620.340 is amended to read as follows:

Each local ***citizen*** foster care review board shall forward annually to the State ***Citizen*** Foster Care Review Board a report and any recommendations regarding:

(1) The policies and practices of the cabinet, the court, and other child-caring facilities and child-placing agencies which affect permanence for children in out-of-home placement; and

(2) The process of local ***citizen*** foster care review.

Section 18. KRS 620.505 is amended to read as follows:

(1) For the purpose of providing an independent, efficient, and thorough representation for children who enter the court system as a result of dependency, abuse, and neglect, there may be established a court-appointed special advocate program by the Chief District Judge ***or family court judge*** within each judicial district.

(2) Local CASA programs shall be governed by a local board of directors. For new CASA programs, the board shall initially be appointed by the Chief District Judge ***or family court judge*** within each judicial district. Members shall be selected by the existing board members thereafter. Each board shall include at least fifteen (15) members. Each board member shall have a demonstrated interest in child welfare issues and commitment to the purpose and role of the court-appointed special advocate volunteers. Cabinet employees shall not be eligible to serve as officers of the board. Members shall, as far as practicable, be representative of the racial and ethnic composition of the area served by the CASA program. The board shall:

  (a) Determine major personnel, organization, fiscal, and program policies including, but not limited to, the following:

    1. Measures to be taken to safeguard the CASA program's information relating to children, their families, and the CASA volunteers;

    2. The procedures for the recruitment, screening, training, and supervision of CASA volunteers; and

    3. The procedure for and circumstances warranting dismissal of a CASA volunteer from the CASA program;

  (b) Determine overall plans and priorities for the CASA program, including provisions for evaluating progress against performance;

  (c) Approve the program budget;

  (d) Enforce compliance with all conditions of all grants contracts;

(e) Determine rules and procedures for the governing board;

(f) Select the officers and the executive committee, if any, of the governing board;

(g) Meet at least four (4) times each year;

(h) Submit an annual report to the state Court-Appointed Special Advocate Association in the uniform manner required which shall include, but need not be limited to, the following information:

1. Number of CASA volunteers in the program;
2. Number of program staff;
3. Number of children served;
4. Number of volunteers receiving initial training;
5. Number of and topics for in-service training; and
6. Other information as deemed appropriate.

(3) Local CASA programs shall comply with the National CASA Association Standards for Programs. Local programs shall ensure that CASA volunteers are adequately supervised by providing at least one (1) supervisory staff person for every fifty (50) cases to which CASA volunteers have been appointed by the court and assigned by the program director. Each local CASA program shall be managed by a qualified director whose service may be voluntary or who may be paid a salary. The program director's duties shall include:

(a) Administration of the CASA program as directed by the governing board;

(b) Recruitment, screening, training, and supervision of CASA volunteers and other program staff;

(c) Facilitation of the performance of the court-appointed special advocates' duties; and

(d) Ensuring that the security measures established by the governing board for safeguarding the information relating to children, their families, and the CASA volunteers are maintained.

(4) CASA volunteers shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served.

(5) CASA volunteers may be removed by the court for nonparticipation or other cause or by the program director pursuant to subsection (2) of this section.

(6) All written court-appointed special advocate reports submitted pursuant to KRS 620.525 shall become part of the cabinet's record of the child.

(7) Employees of the cabinet shall not become volunteers or employees of the court-appointed special advocate program.

(8) Each CASA volunteer, program director, and other program staff shall take an oath, administered by a member of the Court of Justice, to keep confidential all information related to the appointed case except in conferring with or reports to the court, parties to the case, the cabinet, the ***Citizen*** Foster Care Review Board, others designated by the court, and as provided by law.

(9) CASA volunteers shall be appointed by the presiding judge to represent the best interest of the child, subject to judicial discretion, and only after confirmation from the program director that the CASA volunteer has been properly screened and trained.

SB 328, AN ACT relating to critical access hospitals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, and 3 of this Act, the following definitions shall apply:

(1) "Rural health network" means an organization that consists of at least one (1) facility that has been or will be designated as a critical access hospital and at least one (1) hospital that furnishes acute care services.

(2) "Secretary" means the Secretary of the Cabinet for Human Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall make application to the Secretary of the United States Department of Health and Human Services to establish a Medicare rural hospital flexibility program in accordance with 42 U.S.C. 1395i-4, as amended by the Balanced Budget Act of 1997, Public Law 105-33.

(2) The cabinet shall develop and submit as part of its application a rural health plan that:

(a) Provides for the creation of one (1) or more rural health networks;

(b) Promotes regionalization of rural health services in the state;

(c) Improves access to hospital and other health services for rural residents of the state; and

(d) Designates rural hospitals as critical access hospitals.

(3) The secretary shall designate as a critical access hospital any facility which complies with the provisions of Section 3 of this Act.

Section 3. KRS 216.380 is amended to read as follows:

(1) The licensure category of ***critical access***[~~rural primary care~~] hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a ***critical access***[~~rural primary care~~] hospital without first obtaining a license from the Cabinet for Human Resources. An acute-care hospital converting to a ***critical access***[~~rural primary care~~] hospital shall not require a certificate of need ***with the exception of nursing facility beds***.[~~ New construction of a rural primary care hospital shall require a certificate of need.~~] A certificate of need shall not be required for services provided on a contractual basis in a ***critical access***[~~rural primary care~~] hospital ***but shall be required for nursing facility beds***.[~~ No new rural primary care hospital facilities shall be constructed before July 15, 1994.~~]

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a ***critical access***[~~rural primary care~~] hospital if all of the following criteria are met:

(a) The ***hospital***[~~facility~~] is***:***

1. Located ***more than a thirty-five (35) mile drive from another hospital or other health facility; or***

2. Where the terrain is mountainous or only secondary roads are available, the hospital is located more than a fifteen (15) mile drive; or

3. The hospital is certified by the secretary as a necessary provider of health care services to area residents[~~at least twenty (20) miles, via road that is paved year round, from the nearest licensed acute-care hospital providing twenty-four (24) hour emergency care~~];

(b) The ***hospital is a nonprofit or public hospital***[~~facility has sixty (60) or fewer beds~~];[~~ and~~]

(c) The ***hospital***[~~facility~~] is not in a county which is part of a standard metropolitan statistical area***;***

(d) Except as provided in paragraph (e) of this subsection, the hospital provides not more than fifteen (15) acute care inpatient beds for providing inpatient care for a period not to exceed ninety-six (96) hours unless:

1. Patient transfer to another hospital is precluded because of inclement weather or other emergency conditions; or

2. A peer review organization or an equivalent entity has waived the ninety-six (96) hour restriction on a case-by-case basis;

(e) If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds and the number of beds used at any time for acute inpatient services does not exceed fifteen (15) beds. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.

(4) A ***critical access***[~~rural primary care~~] hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care ***that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and***

(b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, offsite contractual basis[~~with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.~~

~~(b) At least six (6) acute care beds which shall be used for observation and treatment of acute care conditions designated by the Cabinet for Human Resources. In no case shall patients remain in a rural primary care hospital for more than ninety-six (96) hours; and~~

~~(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day~~].

(5) A ***critical access***[~~rural primary care~~] hospital may provide the following services:

(a) Swing beds or a distinct ***unit of the hospital which is a*** nursing facility ***in accordance with KRS Chapter 216B and subject to approval under certificate of need***[~~, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled~~

~~nursing facility~~];

(b) Surgery[~~ with the limits of the ninety-six (96) hour length of stay and designated conditions~~];

(c) Normal obstetrics[~~ within the limits of the ninety-six (96) hour length of stay~~];

(d) Primary care;

(e) Adult day health care;

(f) Respite care;[~~ and~~]

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis***;***

(h) Ambulatory care;

(i) Home health services which may be established without obtaining a certificate of need; and

(j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.

(6) The following staffing plan shall apply to a ***critical access***[~~rural primary care~~] hospital:

(a) The ***hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the federal Social Security Act to a hospital located in a rural area except that:***

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis;

2. The hospital need not otherwise staff the facility except when an inpatient is present[~~medical staff shall have at least one (1) physician who shall serve as a medical director~~];[~~ and~~]

(b) Physician ***assistants and nurse practitioners***[~~extenders~~] may ***provide inpatient care***[~~treat patients~~] within the limits of their statutory scope of practice ***and with oversight***[~~. Physician extenders shall be supervised~~] by a physician who is not required to be on site ***at the hospital***[~~at all times. When the facility is occupied by a patient, a physician shall be on call within one half (1/2) hour~~].

(7) A ***critical access***[~~rural primary care~~] hospital shall have a[~~ written~~] quality ***assessment and performance improvement program and procedures for review of utilization of services***[~~ assurance program. Quality assurance may be provided through a contractual arrangement~~].

(8) A ***critical access***[~~rural primary care~~] hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the ***critical access***[~~rural primary care~~] hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(9) ***If the critical access hospital is part of a rural health network, the hospital shall have the following:***

(a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and

(b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan[~~An application for licensure as a rural primary care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for Human Resources. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant~~].

(10) The Cabinet for Human Resources shall ***provide***[~~seek a federal Medicaid waiver to permit~~] cost-based reimbursement of services provided to Medicaid recipients in a ***critical access***[~~rural primary care~~] hospital.

(11) The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

The House Committee Substitute to **SB 328** is as follows:

AN ACT relating to critical access hospitals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, and 3 of this Act, the following definitions shall apply:

(1) "Rural health network" means an organization that consists of at least one (1) facility that has been or will be designated as a critical access hospital and at least one (1) hospital that furnishes acute care services.

(2) "Secretary" means the Secretary of the Cabinet for Human Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall make application to the Secretary of the United States Department of Health and Human Services to establish a Medicare rural hospital flexibility program in accordance with 42 U.S.C. 1395i-4, as amended by the Balanced Budget Act of 1997, Public Law 105-33.

(2) The cabinet shall develop and submit as part of its application a rural health plan that:

(a) Provides for the creation of one (1) or more rural health networks;

(b) Promotes regionalization of rural health services in the state;

(c) Improves access to hospital and other health services for rural residents of the state; and

(d) Designates rural hospitals as critical access hospitals.

(3) The secretary shall designate as a critical access hospital any facility which complies with the provisions of Section 3 of this Act.

Section 3. KRS 216.380 is amended to read as follows:

(1) The licensure category of ***critical access***[~~rural primary care~~] hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a ***critical access***[~~rural primary care~~] hospital without first obtaining a license from the Cabinet for Human Resources. An acute-care hospital converting to a ***critical access***[~~rural primary care~~] hospital shall not require a certificate of need.[~~ New construction of a rural primary care hospital shall require a certificate of need.~~] A certificate of need shall not be required for services provided on a contractual basis in a ***critical access***[~~rural primary care~~] hospital.[~~ No new rural primary care hospital facilities shall be constructed before July 15, 1994.~~]

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a ***critical access***[~~rural primary care~~] hospital if all of the following criteria are met:

(a) The ***hospital***[~~facility~~] is***:***

1. Located ***more than a thirty-five (35) mile drive from another hospital or other health facility; or***

2. Where the terrain is mountainous or only secondary roads are available, the hospital is located more than a fifteen (15) mile drive; or

3. The hospital is certified by the secretary as a necessary provider of health care services to area residents[~~at least twenty (20) miles, via road that is paved year-round, from the nearest licensed acute-care hospital providing twenty-four (24) hour emergency care~~];

(b) The ***hospital is a nonprofit or public hospital***[~~facility has sixty (60) or fewer beds~~];[~~ and~~]

(c) The ***hospital***[~~facility~~] is not in a county which is part of a standard metropolitan statistical area***;***

(d) Except as provided in paragraph (e) of this subsection, the hospital provides not more than fifteen (15) acute care inpatient beds for providing inpatient care for a period not to exceed ninety-six (96) hours unless:

1. Patient transfer to another hospital is precluded because of inclement weather or other emergency conditions; or

2. A peer review organization or an equivalent entity has waived the ninety-six (96) hour restriction on a case-by-case basis;

(e) If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds and the number of beds used at any time for acute inpatient services does not exceed fifteen (15) beds. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.

(4) A ***critical access***[~~rural primary care~~] hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care ***that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and***

(b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, offsite contractual basis[~~with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.~~

~~(b) At least six (6) acute care beds which shall be used for observation and treatment of acute care conditions designated by the Cabinet for Human Resources. In no case shall patients remain in a rural primary care hospital for more than ninety-six (96) hours; and~~

~~(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day~~].

(5) A ***critical access***[~~rural primary care~~] hospital may provide the following services:

(a) Swing beds or a distinct ***unit of the hospital which is a*** nursing facility ***in accordance with KRS Chapter 216B***[~~, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled nursing facility~~];

(b) Surgery[~~ with the limits of the ninety-six (96) hour length of stay and designated conditions~~];

(c) Normal obstetrics[~~ within the limits of the ninety-six (96) hour length of stay~~];

(d) Primary care;

(e) Adult day health care;

(f) Respite care;[~~ and~~]

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis***;***

(h) Ambulatory care;

(i) Home health services which may be established without obtaining a certificate of need; and

(j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.

(6) The following staffing plan shall apply to a ***critical access***[~~rural primary care~~] hospital:

(a) The ***hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the federal Social Security Act to a hospital located in a rural area except that:***

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis;

2. The hospital need not otherwise staff the facility except when an inpatient is present[~~medical staff shall have at least one (1) physician who shall serve as a medical director~~];[~~ and~~]

(b) Physician ***assistants and nurse practitioners***[~~extenders~~] may ***provide inpatient care***[~~treat patients~~] within the limits of their statutory scope of practice ***and with oversight***[~~. Physician extenders shall be supervised~~] by a physician who is not required to be on site ***at the hospital***[~~at all times. When the facility is occupied by a patient, a physician shall be on call within one-half (1/2) hour~~].

(7) A ***critical access***[~~rural primary care~~] hospital shall have a[~~ written~~] quality ***assessment and performance improvement program and procedures for review of utilization of services***[~~ assurance program. Quality assurance may be provided through a contractual arrangement~~].

(8) A ***critical access***[~~rural primary care~~] hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the ***critical access***[~~rural primary care~~] hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(9) ***If the critical access hospital is part of a rural health network, the hospital shall have the following:***

(a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and

(b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan~~[An application for licensure as a rural primary care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for Human Resources. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant]~~.

(10) The Cabinet for Human Resources shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a ***critical access***~~[rural primary care]~~ hospital.

(11) The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, hospitals located in a hospital district pursuant to KRS 216.310 to 216.360 may offer the following services and facilities in counties contiguous to the hospital district and shall obtain a certificate of need where required:

(1) Home health services;

(2) Rural health clinics;

(3) Physician office buildings;

(4) Mobile diagnostic services; and

(5) Any other service or facility where there is agreement between the hospital and a provider located in a county contiguous to the hospital district to jointly develop and operate the service or facility.

The House Committee Amendment No. 1 Title to the House Committee Substitute to **SB 328** is as follows:

By amending the title to read as follows: "AN ACT relating to hospitals."

SB 336, AN ACT relating to the Kentucky Birth Surveillance Registry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.660 is amended to read as follows:

(1) The Department for Health Services shall establish and maintain a Kentucky birth surveillance registry that will provide a system for the collection of information concerning birth defects, stillbirths, and high risk conditions. The system may cover all or part of the Commonwealth.

(2) In establishing the system, the department may review vital statistics records, and shall also consider expanding the current list of congenital anomalies and high risk conditions as reported on birth certificates.

(3) The department may require general acute-care hospitals licensed under the provisions of KRS Chapter 216B to maintain a list of the following information: All inpatients up to the age of five (5) years with a primary diagnosis of a congenital anomaly or high risk condition as defined by the department upon the recommendation of the appointed advisory committee.

(4) ***Each licensed free-standing birthing center and general acute-care hospital licensed under KRS Chapter 216B shall grant to any Kentucky Birth Surveillance Registry personnel or his or her designee, upon presentation of proper identification,***~~[With the written consent of one (1) parent or guardian, the department may have]~~ access to the medical records of any patient meeting the criteria in subsection (3) of this section***. If the department's agent determines that copying of the medical records is necessary, associated costs shall be borne by the Department for Public Health at the rate pursuant to KRS 422.317***~~[that are maintained by general acute care hospitals and freestanding birthing centers licensed under the provisions of KRS Chapter 216B]~~.

(5) ***No liability of any kind, character, damages, or other relief shall arise or be enforced against any licensed free-standing birthing center or general acute-care hospital by reason of having provided the information or material to the Kentucky Birth Surveillance Registry.***

(6) The Department for Health Services may implement the provisions of KRS 211.651 to 211.670 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

The Committee on Appropriations and Revenue reported **HB 669,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 669, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act and KRS 136.070, 136.071, 136.073, 136.076, and 136.078:

(1) "Book value" means the value shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(2) "Consolidated return" means a corporation license tax return filed by a qualifying corporation with all related corporations in accordance with subsection (1)(b) of Section 2 of this Act in which the corporations are treated as a single corporation for purposes of determining and reporting capital, capital employed, tax liability, and credits;

(3) "Corporation" means an entity incorporated under the laws of this state or another state;

(4) "Qualifying corporation" means any corporation subject to tax in accordance with KRS 136.070(1) which directly owns stock or security of other corporations the total book value of which is equal to or greater than fifty percent (50%) of the book value of its total assets;

(5) "Related corporation" means any corporation in which the qualifying corporation directly or indirectly owns more than fifty percent (50%) of its outstanding stock other than:

(a) Financial institutions as defined in KRS 136.500;

(b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(c) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(d) Production credit associations;

(e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;

(f) Public service companies subject to taxation under KRS 136.120; or

(g) Those corporations exempted by Section 501 of the Internal Revenue Code or any other religious, educational, charitable, or like corporations, not organized or conducted for pecuniary profit;

(6) "Security" means any note, bond, debenture, or evidence of indebtedness;

(7) "Separate return" means a corporation license tax return filed by a single corporation for purposes of determining and reporting capital, capital employed, tax liability, and credits;

(8) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(9) "Stock" means any share of stock, certificate of stock, or other unit into which the proprietary interest in a corporation is divided; and

(10) "Taxable year" means the period for which a return is required to be filed for federal income tax purposes.

Section 2. KRS 136.071 is amended to read as follows:

(1) Notwithstanding any other *provision*[~~provisions~~] of this chapter, a *qualifying* corporation[~~ whose commercial domicile is in this state and holds directly or indirectly stock or securities in other corporations equal to or greater than fifty percent (50%) of its total assets~~] may, at the option of the *corporation:*

(a) File a separate return and deduct from capital the book value of its investment in the stock and security of any corporation in which it directly owns more than fifty percent (50%) of the outstanding stock; or

(b) File a consolidated return with all related corporations[~~taxpayer, be considered as one (1) corporation for purposes of determining and apportioning total "capital," or compute its "capital" under KRS 136.070(2) as follows:~~

~~(a) Determine the corporation's total capital as provided in KRS 136.070(2).~~

~~(b) Deduct from the amount determined in subsection (a) of this section, the book value of its investment in the stock and securities of any corporation in which it owns more than fifty percent (50%) of the outstanding stock of such corporation~~].

(2) *All transactions between corporations included in the consolidated return shall be eliminated in computing capital in accordance with KRS 136.070(2) and in determining the property, payroll, and sales factor in accordance with KRS 136.070(3).*

(3) Every corporation included as a member of a group of related corporations filing a consolidated return shall be

jointly and severally liable for the consolidated license tax liability, except that any corporation which was not a member of the group for the entire taxable year shall be jointly and severally liable only for that portion of the consolidated license tax liability attributable to that portion of the year that the corporation was a member of the group[~~For purposes of determining the ratio of stock and securities to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year~~].

Section 3. KRS 136.090 is amended to read as follows:

(1) ***(a)*** ***Every corporation subject***[~~Corporations liable~~] to ***tax***[~~taxation~~] under KRS 136.070 shall***, for each taxable year,*** file ***a separate return unless the corporation was, for any part of the taxable year, a member of a group of related corporations filing a consolidated return in accordance with Section 2 of this Act.***

(b) ***Every return shall be submitted***[~~with the Revenue Cabinet each year,~~] on forms ***prescribed***[~~prepared~~] by the cabinet, ***and***[~~a return~~] signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer.

(2) ***Every return***[~~ This report~~] shall ***state:***

(a) [~~give~~]The name of the corporation;

(b) The name of the state or government under the laws of which it is incorporated;

(c) The date of incorporation;

(d) The place of its principal office in and out of this state;

(e) The name and address of its president and secretary;[~~ the name and address of its authorized agent or attorney upon whom process may be executed in this state;~~]

(f) The name and address of the officer or agent in charge of its business in this state;[~~ and~~]

(g) The nature and kind of business in which it is engaged***; and***[~~.~~]

[~~(2) The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such~~]

(h) Other facts as the cabinet requires.

Section 4. KRS 136.100 is amended to read as follows:

(1) ***Every return***[~~If the corporation operates on a calendar year basis, the reports~~] required under ***Section 3 of this Act***[~~KRS 136.090~~] shall be filed on or before ***one (1) month later than the date required for filing the federal income tax return***[~~April 15 in each year. If the corporation operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the Revenue Cabinet on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence~~].

(2) ***(a)*** ***The value of capital on any return made for a period of less than one (1) year shall be calculated in the same manner as on a return made for a twelve (12) month period.***

(b) ***If any return is made by a corporation for a period of less than one (1) year, the tax liability after application of the credit authorized in KRS 136.070(6) shall be multiplied by a fraction:***

1. ***The numerator of which is the number of days in the period; and***

2. ***The denominator of which is three hundred sixty-five (365)***[~~A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the cabinet. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period~~].

(3) In any case where two (2) or more corporations merge, consolidate or otherwise combine into a single corporation after the close of the taxable year, but before the beginning of the succeeding taxable year, ***capital and the property, payroll, and sales factors of the single corporation***[~~all factors used to determine the corporation license tax assessment~~] shall be

computed on the basis of the consolidated accounting records of ***the***[~~such~~] corporations.

Section 5. The amendments contained in this Act shall apply for taxable years beginning after December 31, 1997.

The Committee Amendment No. 1 to **HB 669** is as follows:

On page 6, line 13, by deleting "1997" and inserting in lieu thereof "1999".

The Committee on Judiciary reported **SB 88, SB 119,** with Committee Substitute attached thereto, **SB 146, SB 171, SB 276,** and **SB 352** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 88, AN ACT relating to the release of liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.365 is amended to read as follows:

(1) A holder of a lien on real property, including a lien provided for in KRS 376.010, shall release the lien in the county clerk's office where the lien is recorded within thirty (30) days from the date of satisfaction.

(2) A proceeding may be filed in ***District Court or*** Circuit Court against a lienholder that violates subsection (1) of this section. A proceeding filed under this section shall be given precedence over other matters pending before the court.

(3) Upon proof ***to the court***[~~of satisfaction~~] of the lien being ***satisfied***[~~introduced~~], the court ***shall***[~~may~~] enter a judgment releasing the lien. A lienholder that violates subsection (1) of this section shall also be liable to the owner of the real property for fifty dollars ($50) and any actual expense including a reasonable attorney's fee incurred by the owner in securing the release of real property by such violation. The judgment shall be with costs including reasonable attorneys' fees.

(4) The former holder of a lien on real property shall send by regular mail a copy of the lien release to the property owner at his last known address within seven (7) days of the release. A former lienholder that violates this subsection shall be liable to the owner of the real property for fifty dollars ($50) and any actual expense incurred by the owner in obtaining documentation of the lien release.

SB 119, AN ACT relating to theft of services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) ***The person***[~~He~~] intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation;[~~ or~~]

(b) ***The person intentionally obtains wireless communications services or access to services by any of the following means:***

1. Unauthorized interception of any electronic serial number, mobile identification number, personal identification number, or like identifying number;

2. Unauthorized interception of any cellular service or personal communications service as terms may be defined in Title 47 C.F.R., Parts 22 and 24 respectively;

3. Unauthorized interception of any similar telephone service; or

4. Use of deception, threat, or other means to avoid payment for the services which the person knows are available only for charge or compensation; or

(c) Having control over ***or unauthorized access to the use of*** the services of others to which ***the person***[~~he~~] is not entitled, ***the person***[~~he~~] intentionally diverts the services to ***the person's***[~~his~~] own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of the services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity, or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in ***a***[~~such~~] manner ***so*** as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is three hundred dollars ($300) or more, in which case it is a Class D felony.

(5) The court shall, in addition to any sentence authorized by law, sentence a person convicted of violating the provisions of this section to make restitution to any aggrieved service provider requesting restitution. A service provider aggrieved by a violation of any provision of this section shall have a civil cause of action for compensatory and punitive damages, as well as injunctive relief, plus recovery of reasonable litigation expenses, including attorney's fees.

Section 2. KRS 514.065 is amended to read as follows:

(1) As used in this section, "***telecommunications***[~~telephone~~] service" means any communication service ordinarily provided[~~ by a telephone utility~~] for ***a charge or*** compensation ***to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, sounds, or intelligence of any nature by telephone***, including but not limited to ***cellular and personal communications service, as terms may be defined in Title 47 C.F.R., Parts 22 and 24, respectively, telephones, wire, radio, electromagnetic, photoelectronic, or photooptical systems***[~~the transmission of voice, data, pictures or signals of all kinds~~], but excluding cable television services, even if provided by a telephone utility.

(2) A person is guilty of possession, use, or transfer for use of a device for theft of ***telecommunications***[~~telephone~~] services when ***the person***[~~he~~]:

(a) Makes***, assembles,*** or possesses any instrument, apparatus, equipment***,*** or device designed, ***modified, altered, programmed, reprogrammed, or otherwise*** adapted for or used for commission of a theft of ***telecommunications***[~~telephone~~] services in violation of KRS 514.060; or

(b) Sells, gives, transports, or otherwise transfers to another, or offers or advertises to sell, give, or otherwise transfer any instrument, apparatus, equipment***,*** or device described in paragraph (a) of this subsection, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ ***the***[~~such~~] instrument, apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in paragraph (a) of this subsection, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling ***the***[~~such~~] instrument, apparatus, equipment, or device.

(3) An instrument, apparatus, equipment or device described in paragraph (a) of[~~ this~~] subsection ***(2) of this section*** shall not include any instrument, apparatus, equipment***,*** or device authorized or approved or otherwise permitted by an agency of the federal government or the Commonwealth of Kentucky.

(4) Possession, use, or transfer for use of a device for theft of ***telecommunications***[~~telephone~~] services is a Class A misdemeanor unless the defendant has previously been convicted of violating this section, in which case it is a Class D felony.

(5) The court shall, in addition to any sentence authorized by law, sentence a person convicted of violating this section to make restitution to any aggrieved telecommunications service provider requesting restitution. A telecommunications service provider aggrieved by a violation of any provision of this section shall have a civil cause of action for compensatory and punitive damages as well as injunctive relief, plus recovery of reasonable litigation expenses, including attorney's fees.

(6) Notwithstanding any other provision of this chapter, any instrument, apparatus, equipment, or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications service in violation of KRS 514.060, may be seized under warrant or incident to a lawful arrest for the violation of KRS 514.060, and, upon the conviction of any person for a violation, the court shall order any instrument, apparatus, equipment, device, or plans or instructions for making or assembling them forfeited to the state or destroyed in accordance with KRS 500.090(1)(a), or if requested by the person providing the telecommunications service in the territory in which they were seized, turned over to the telecommunications service provider.

The House Committee Substitute to **SB 119** is as follows:

AN ACT relating to theft of services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) ***The person***[~~He~~] intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation;[~~ or~~]

(b) ***The person intentionally obtains wireless communications services or access to services by any of the following means:***

1. Unauthorized interception of any electronic serial number, mobile identification number, personal identification number, or like identifying number;

2. Unauthorized interception of any cellular service or personal communications service as terms may be defined in Title 47 C.F.R., Parts 22 and 24 respectively;

3. Unauthorized interception of any similar telephone service; or

4. Use of deception, threat, or other means to avoid payment for the services which the person knows are available only for charge or compensation; or

(c) Having control over ***or unauthorized access to the use of*** the services of others to which ***the person***[~~he~~] is not entitled, ***the person***[~~he~~] intentionally diverts the services to ***the person's***[~~his~~] own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of the services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity, or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in ***a***[~~such~~] manner ***so*** as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is three hundred dollars ($300) or more, in which case it is a Class D felony.

Section 2. KRS 514.065 is amended to read as follows:

(1) As used in this section, "***telecommunications***[~~telephone~~] service" means any communication service ordinarily provided[~~ by a telephone utility~~] for ***a charge or*** compensation ***to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, sounds, or intelligence of any nature by telephone***, including but not limited to ***cellular and personal communications service, as terms may be defined in Title 47 C.F.R., Parts 22 and 24, respectively, telephones, wire, radio, electromagnetic, photoelectronic, or photooptical systems***[~~the transmission of voice, data, pictures or signals of all kinds~~], but excluding cable television services, even if provided by a telephone utility.

(2) A person is guilty of possession, use, or transfer for use of a device for theft of ***telecommunications***[~~telephone~~] services when ***the person***[~~he~~]:

(a) Makes***, assembles,*** or possesses any instrument, apparatus, equipment***,*** or device designed, ***modified, altered, programmed, reprogrammed, or otherwise*** adapted for or used for commission of a theft of ***telecommunications***[~~telephone~~] services in violation of KRS 514.060; or

(b) Sells, gives, transports, or otherwise transfers to another, or offers or advertises to sell, give, or otherwise transfer any instrument, apparatus, equipment***,*** or device described in paragraph (a) of this subsection, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ ***the***[~~such~~] instrument, apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in paragraph (a) of this subsection, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling ***the***[~~such~~] instrument, apparatus, equipment, or device.

(3) An instrument, apparatus, equipment or device described in paragraph (a) of[~~ this~~] subsection ***(2) of this section*** shall not include any instrument, apparatus, equipment***,*** or device authorized or approved or otherwise permitted by an agency of the federal government or the Commonwealth of Kentucky.

(4) Possession, use, or transfer for use of a device for theft of ***telecommunications***[~~telephone~~] services is a Class A misdemeanor unless the defendant has previously been convicted of violating this section, in which case it is a Class D felony.

(5) Notwithstanding any other provision of this chapter, any instrument, apparatus, equipment, or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications service in violation of KRS 514.060, may be seized under warrant or incident to a lawful arrest for the violation of KRS 514.060, and, upon the conviction of any person for a violation, the court shall order any instrument, apparatus, equipment, device, or plans or instructions for making or assembling them forfeited to the state or destroyed in accordance with KRS 500.090(1)(a), or if requested by the person providing the telecommunications service in the territory in which they were seized, turned over to the telecommunications service provider.

SB 146, AN ACT relating to tobacco products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.311 is amended to read as follows:

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, or from an employer when required in the performance of the person's duties.

(2) Violation of this section shall be punishable by a fine of fifty dollars ($50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars ($200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.

(3) This offense shall be deemed a status offense and shall be under the jurisdiction of the Juvenile Session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 2. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the department using a civil enforcement procedure ***for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the Juvenile Session of the District Court.***

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 3. KRS 438.315 is amended to read as follows:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after July 15, 1994, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be administered by the department

using a civil enforcement procedure ***for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years the offense shall be deemed a status offense and shall be under the jurisdiction of the Juvenile Session of the District Court.***

(5) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 4. KRS 438.335 is amended to read as follows:

Except for the provisions of Section 1 of this Act and for the provisions of Sections 1 and 3 of this Act, if committed by juveniles, which shall be under the jurisdiction of the Juvenile Session of the District Court, the Department of Agriculture shall enforce KRS 438.305 to 438.340. The department shall be entitled to the revenue produced by one-tenth of one cent ($0.001) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and keep one hundred percent (100%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

SB 171, AN ACT relating to the fair and reliable imposition of capital sentences.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be subject to or given a sentence of death that was sought on the basis of race.

(2) A finding that race was the basis of the decision to seek a death sentence may be established if the court finds that race was a significant factor in decisions to seek the sentence of death in the Commonwealth at the time the death sentence was sought.

(3) Evidence relevant to establish a finding that race was the basis of the decision to seek a death sentence may include statistical evidence or other evidence, or both, that death sentences were sought significantly more frequently:

- ***(a) Upon persons of one race than upon persons of another race; or***
- ***(b) As punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.***

(4) The defendant shall state with particularity how the evidence supports a claim that racial considerations played a significant part in the decision to seek a death sentence in his or her case. The claim shall be raised by the defendant at the pre-trial conference. The court shall schedule a hearing on the claim and shall prescribe a time for the submission of evidence by both parties. If the court finds that race was the basis of the decision to seek the death sentence, the court shall order that a death sentence shall not be sought.

(5) The defendant has the burden of proving by clear and convincing evidence that race was the basis of the decision to seek the death penalty. The Commonwealth may offer evidence in rebuttal of the claims or evidence of the defendant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Section 1 of this Act shall not apply to sentences imposed prior to the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 3 of this Act shall be cited as the Kentucky Racial Justice Act.

SB 276, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

- (a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500).
- (b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500), except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the

person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In~~[counties containing]~~ a city***, county, charter county,***~~[of the first class]~~ or an urban-county~~[form of]~~ government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county**,**~~[containing a]~~ city***, charter county,***~~[of the first class]~~ or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county**,**~~[containing a]~~ city***, charter county,***~~[of the first class]~~ or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500). All sums paid by the defendant under this subsection shall be paid into the general fund of the county**,**~~[containing a]~~ city***, charter county,***~~[of the first class]~~ or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county~~[containing a city of the first class]~~ or urban-county involved. The adult misdemeanant probation and work release program of the county**,**~~[containing a]~~ city***, charter county,***~~[of the first class]~~ or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

SB 352, AN ACT relating to Article 3 of the Uniform Commercial Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

355.3-701 Letter of advice of international sight draft.
355.3-801 Drafts in a set.
355.3-802 Effect of instrument on obligation for which it is given.
355.3-803 Notice to third party.
355.3-804 Lost, destroyed or stolen instruments.
355.3-805 Instruments not payable to order or to bearer.

Section 2. The General Assembly finds and declares that in enacting the Revised Article 3 of the Uniform Commercial Code in 1996 Ky. Acts Chapter 130, effective January 1, 1997, it was the intent of the General Assembly to repeal those sections of the former Article 3 that are now being repealed in Section 1 of this Act but that these sections were inadvertently omitted and further finds and declares that this situation has been properly described in the Legislative Research Commission Note that was appended to each of these statutes in the Kentucky Revised Statutes. For these reasons, this Act is retroactive to January 1, 1997, the effective date of the repeal of the former Article 3.

The Committee on State Government reported **HB 743, SB 41,** with Committee Substitute attached thereto, **SB 77, SB 208, SB 248,** and **SCR 95,** with Committee Substitute attached thereto,with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 743, AN ACT relating to the state flag of the Commonwealth

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.030 is amended to read as follows:

(1) The official state flag of the Commonwealth of Kentucky shall be of navy blue silk, nylon, wool or cotton bunting, or some other suitable material, with the seal of the Commonwealth encircled by a wreath, the lower half of which shall be goldenrod in bloom and the upper half the words "Commonwealth of Kentucky," embroidered, printed, painted or stamped on the center thereof. The dimensions of the flag may vary, but the length shall be one and nine-tenths (1 9/10) times the width and the diameter of the seal and encirclement shall be approximately two-thirds (2/3) the width of the flag.

(2) The approved official drawings of the state flag shall be permanently retained in the files of the office of the Secretary of State. All state flags for official use of the Commonwealth shall conform as to color and design with these official drawings.

(3) The emblem at the head of a flagstaff used to display the flag of the Commonwealth of Kentucky ***may***[~~shall~~] be the Kentucky cardinal in an alert but restful pose, cast in bronze, brass or other suitable material.

(4) The flying of the state flag at all state buildings and installations including public school buildings, National Guard armories, state parks and other such buildings is considered proper and is encouraged.

SB 41, AN ACT relating to a gas system restoration and development project account.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.200 is amended to read as follows:

(1) The Department of Local Government is authorized and directed to apply for and receive federal funds to be placed in a state account called the Gas System Restoration ***and Development*** Project Account, and to provide staff to administer said funds. ***The funds in this account may be used in any gas system restoration or development project approved by the Gas System Restoration and Development Project Account Review Board.***

(2) A Gas System Restoration ***and Development*** Project Account Review Board is established, and shall consist of seven (7) members appointed by the Governor***. The board shall be chaired by the commissioner of the Department of Local Government***, and ***shall include***[~~including~~] representatives of the Public Service Commission, ***gas industry, finance industry***[~~state fire marshal's office, Department of Local Government, banking and finance industry, commercial or industrial consumers, Kentucky Gas Association~~], and low income or minority group consumers. Members shall be reimbursed for necessary expenses in attending meetings.

(3) The review board shall meet ***as necessary***[~~monthly~~], and shall establish rules for conducting its business. The review board shall consider applications for loans from the account, and approve or disapprove loan applications. No loan shall be considered unless the applicant has complied with all construction and securities requirements of the Public Service Commission. In reviewing loan applications, the review board may request the testimony of the county judge/executive of an affected county, and any other witnesses deemed appropriate.

The House Committee Substitute to **SB 41** is as follows:

AN ACT relating to a gas system restoration and development project account.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.200 is amended to read as follows:

(1) The Department of Local Government is authorized and directed to apply for and receive federal funds to be placed in a state account called the Gas System Restoration ***and Development*** Project Account, and to provide staff to administer said funds. ***The funds in this account may be used in any gas system restoration or development project approved by the Gas System Restoration and Development Project Account Review Board.***

(2) A Gas System Restoration ***and Development*** Project Account Review Board is established, and shall consist of seven (7) members appointed by the Governor***. The board shall be chaired by the commissioner of the Department of Local Government***, and ***shall include***[~~including~~] representatives of the Public Service Commission, state fire marshal's office, Department of Local Government, banking and finance industry, commercial or industrial consumers, Kentucky Gas Association, and low income or minority group consumers. Members shall be reimbursed for necessary expenses in attending meetings.

(3) The review board shall meet ***as necessary***[~~monthly~~], and shall establish rules for conducting its business. The review board shall consider applications for loans from the account, and approve or disapprove loan applications. No loan shall be considered unless the applicant has complied with all construction and securities requirements of the Public Service Commission. In reviewing loan applications, the review board may request the testimony of the county judge/executive of an affected county, and any other witnesses deemed appropriate.

SB 77, AN ACT relating to administrative hearings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13B.040 is amended to read as follows:

(1) A person who has served as an investigator or prosecutor in an administrative hearing or in its preadjudicative stage shall not serve as hearing officer or assist or advise a hearing officer in the same proceeding. This shall not be construed as preventing a person who has participated as a hearing officer in a determination of probable cause or other equivalent preliminary determination from serving as a hearing officer in the same proceeding.

(2) (a) A hearing officer, agency head, or member of an agency head who is serving as a hearing officer shall voluntarily disqualify himself and withdraw from any case in which he cannot afford a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing officer, agency head, or member of the agency head by filing an affidavit, upon discovery of facts establishing grounds for a disqualification, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded. ***A request for the disqualification of a hearing officer shall be answered by the agency head within sixty (60) days of its filing.*** The request for disqualification and the disposition of the request shall be a part of the official record of the proceeding. Requests for disqualification of a hearing officer shall be determined by the agency head. Requests for disqualification of a hearing officer who is a member of the agency head shall be determined by the majority of the remaining members of the agency head.

(b) Grounds for disqualification of a hearing officer shall include, but shall not be limited to, the following:

1. Serving as an investigator or prosecutor in the proceeding or the preadjudicative stages of the proceeding;
2. Participating in an ex parte communication which would prejudice the proceedings;
3. Having a pecuniary interest in the outcome of the proceeding; or
4. Having a personal bias toward any party to a proceeding which would cause a prejudgment on the outcome of the proceeding.

SB 208, AN ACT relating to deposit of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.240 is amended to read as follows:

(1) (a) Before any bank shall be named as a state depository to receive public funds, it shall ***either*** pledge ***or provide*** to the State Treasurer, as collateral, securities ***or other obligations*** having ***an aggregate current face value or***[~~a~~] current quoted market value at least equal to the deposits ***or provide to the State Treasurer a surety bond or surety bonds in favor of the State Treasurer in an amount at least equal to the deposits***, provided, however, that amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation need not be ***so*** collateralized. The president or cashier of each depository bank shall submit to the

Treasurer and the State Investment Commission a statement subscribed and sworn to by him showing***:***

1. The ***face value or*** current quoted market value of the securities ***or other obligations*** pledged ***or provided*** as of the time the securities ***or other obligations*** are offered as collateral***; and***

2. The value of surety bonds provided as of the time such surety bonds are provided as collateral.

The[~~ market~~] valuation of all pledged ***or provided*** collateral ***and the face amount of all surety bonds provided as collateral*** shall be reported to the State Treasurer and State Investment Commission upon receipt of deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31. Such ***value with respect to pledged collateral other than surety bonds***[~~quotes~~] shall be as of the end of the quarter or the preceding business day and***, as to market values,*** shall be obtained from a reputable bond pricing service. The State Treasurer and Governor may from time to time call for additional collateral to adequately secure the deposits as ***aggregate face or*** current market values may require.

(b) No deposit of state collected demand and time funds shall collectively exceed at any time the depository's sum of capital, reserves, undivided profits and surplus or ten percent (10%) of the total deposits of any particular depository, whichever is less. Deposits will be valued at the end of each business day.

(2) (a) As an alternative to paragraph (1)(a) of this section, a Kentucky depository insured by the Federal Deposit Insurance Corporation may ***either*** pledge to the State Treasurer***,*** as collateral***,*** securities ***or other obligations*** having ***an aggregate face value or*** a current quoted market value ***or provide to the State Treasurer a surety bond or surety bonds in an amount*** equal to eighty percent (80%) of the value of the state deposit including demand and time accounts, if the depository is determined by the State Investment Commission to have very strong credit with little or no credit risk at any maturity level and the likelihood of short-term unexpected problems of significance is minimal or not of a serious or long-term nature. The value of the state deposit will be determined at the end of the business day of deposit and as of the end of business on the last day of each quarter that funds are so deposited.

(b) [~~Market ~~]Valuation of all pledged ***or provided*** collateral ***and the face amount of surety bonds provided*** shall be reported to the State Treasurer and the State Investment Commission upon receipt of the state deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31.

(c) Depositories designated as qualified for reduced pledging shall be so recorded in the executive journal.

(d) The State Investment Commission shall determine eligibility for the reduced pledging option based on totally objective and quantifiable measures of financial intermediary performance. The information for such eligibility shall be obtained from publicly available documents. The State Investment Commission shall promulgate the particular criteria of eligibility by regulations issued pursuant to KRS Chapter 13A.

(3) Depositories which do not qualify or do not choose to qualify under subsection (1) or (2) of this section shall not receive state deposits in excess of amounts that are insured by an instrumentality of the United States.

(4) Only the following securities ***and other obligations*** may be accepted by the State Treasurer as collateral under this section:

(a) Bonds, notes, ***letters of credit*** or other obligations of or ***issued or*** guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures***, letters of credit,*** or any other obligations[~~ or securities~~] issued or guaranteed by any federal governmental agency ***or instrumentality***, presently or in the future established by an Act of Congress, as amended or supplemented from time to time***, including, without limitation, the United States government corporations listed in subsection (1)(c) of Section 3 of this Act***;

(b) Obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions or agencies;

(c) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;

(d) Obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(e) School improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100;[~~ and~~]

(f) School building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the Kentucky Board of Education***; and***

(g) Surety bonds issued by sureties rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

Section 2. KRS 56.520 is amended to read as follows:

(1) The commission may issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in

denominations and amounts, as is deemed to be for the best interest of the Commonwealth, for any of the following purposes:

(a) To acquire real estate for state governmental use;

(b) To pay all or any part of the expense or cost of or incidental to a building project for state governmental use;

(c) To defray the cost of plans, specifications, blueprints, architectural fees, and other expenses authorized to be incurred for state governmental use.

(2) The payment of bonds issued, together with the interest thereon, may be secured by a pledge and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except funds derived from rentals or other revenues derived from the operation of the properties or from revenues as are available for the purpose by law.

(3) All competitive bids for the sale of revenue bonds shall be opened and read publicly by the secretary of the Finance and Administration Cabinet or his representative at a designated place, day, and hour, all of which shall be announced in the advertising made relative thereto.

(4) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy, and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of the bonds. Any insurance shall be paid for out of funds available for the project.

(5) As provided in KRS 42.500, the commission may invest proceeds from the sale of its revenue or other authorized bonds as follows:

(a) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;

(b) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Services;

(c) Obligations for the Commonwealth of Kentucky;

(d) Bonds and notes of any state or local government or public authority;

(e) Savings certificates issued by any federal savings and loan association if any principal amount of the certificate in excess of the amount insured by the federal government, or any agency thereof, is fully collateralized;

(f) Prime quality commercial paper bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, if the accepting bank or its holding company is either incorporated in the Commonwealth of Kentucky or has outstanding publicly held obligations bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations;

(h) Participating share in a mutual fund for local government investment;

(i) A commingled investment pool established and administered under KRS 66.480;

(j) Evidences of ownership of or fractional undivided interests in future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian;

(k) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States or entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a federal reserve bank, or any commercial bank, trust company, or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:

1. Such obligations that are subject to the repurchase agreement are delivered in physical or in book entry form to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority. The repurchase agreement shall provide that the value of the underlying obligations shall

be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;

2. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedure, conforming to the extent practicable with federal regulations and satisfactory to the local government or public authority, have been established for the benefit of the local government or public authority or its assignee;

3. The securities are free and clear of any adverse third party claims; and

4. The repurchase agreement is in a form satisfactory to the local government or public authority;~~[and]~~

(l) Guaranteed investment contracts with a bank or insurance company, if the bank or insurance company bears one (1) of the two (2) highest ratings of at least one (1) nationally recognized rating service and does not bear a rating below one (1) of the two (2) highest ratings by any nationally recognized rating service***; and***

(m) Deposits in certificates of deposit or other interest bearing accounts of banks qualifying under Section 1 of this Act as state depositories to accept deposit of public funds.

Section 3. KRS 66.480 is amended to read as follows:

(1) The governing body of a city, county, urban-county, charter county, school district (provided that its general procedure for action is approved by the Kentucky Board of Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. These investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(c) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
3. Bank for Cooperatives;
4. Federal Intermediate Credit Banks;
5. Federal Land Banks;
6. Federal Home Loan Banks;
7. Federal National Mortgage Association; and
8. Tennessee Valley Authority;

(d) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations***, including surety bonds,*** permitted by KRS 41.240(4);

(e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) Commercial paper rated in the highest category by a nationally recognized rating agency;

(h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency; and

(j) Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. All of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) The investment authority provided by subsection (1) of this section shall be subject to the following limitations:

(a) The amount of money invested at any time by a local government or political subdivision in one (1) or more of the categories of investments authorized by subsections (1)(e), (f), (g), and (i) of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government; and

(b) No local government or political subdivision shall purchase any investment authorized by subsection (1) on a margin basis or through the use of any similar leveraging technique.

(3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include, but shall not be limited to the following:

(a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;

(b) A list of the permitted types of investments;

(c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;

(d) Standards for written agreements pursuant to which investments are to be made;

(e) Procedures for monitoring, control, deposit, and retention of investments and collateral;

(f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;

(g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and

(h) Requirements for periodic reporting to the governing body on the status of invested funds.

(4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, as permitted by this section.

(5) The provisions of this section are not intended to impair the power of a county official, city, county, urban-county, charter county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(6) The governing body or county official may delegate the investment authority provided by this section to the treasurer or other financial officer or officers charged with custody of the funds of the local government, and the officer or officers shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(7) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(8) The state local debt officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request that assistance.

(9) (a) The state local debt officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and

charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local debt officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report..

(b) If the state local debt officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local debt officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings, and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(10) (a) With the approval of the Kentucky Board of Education, local boards of education, or any of them that desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the Kentucky Board of Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The Kentucky Board of Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

Section 4. KRS 287.330 is amended to read as follows:

(1) Banks, subject to statutory or charter limitations, may pledge such portion of their assets ***or provide surety bonds*** as may be required by law as collateral security for government deposits made with them, or any of them, by or under the authority of the United States, or for any other deposit required by law to be secured.

(2) Notwithstanding any law requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12B of the Federal Reserve Act (38 Stat. 251) as amended.

(3) If a bank proposes to sell its assets and transfer its deposit liability to another bank and the purchasing bank is unwilling to accept a sufficient amount of the assets to cover the liability to depositors and other creditors, the selling bank may, with the consent of the commissioner, pledge all or a part of its remaining or unacceptable assets to secure a loan for an amount sufficient to cover the remaining liability to the depositors and other creditors.

SB 248, AN ACT relating to law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any public police department, sheriff's office, or the Kentucky State Police may, upon written agreement with a property owner or property owners' association, patrol the roadways and parking lots located on private property within the jurisdiction of the public police department, sheriff's office, or the Kentucky State Police and enforce the laws of the Commonwealth and local ordinances, including traffic laws and ordinances, on that private property.

(2) This section shall not permit a public police department, sheriff's office, or the Kentucky State Police to enforce the

private rules or regulations of the property owner.

(3) This section shall not limit any peace officer from coming on private property for the enforcement of the law, provided that the entry upon private property is consistent with the provisions of the Constitution of the United States, the Constitution of Kentucky, the Kentucky Revised Statutes, and applicable court decisions.

(4) During the period that an agreement consumated pursuant to subsection (1) of this section is in effect, the roadways and parking lots on the property shall be deemed a highway within the meaning of KRS 189.010 for the purposes of enforcement of traffic and motor vehicle law.

Section 2. KRS 189.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes ***private roads and parking lots covered by an agreement under Section 1 of this Act,*** off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) "Manufactured home" has the same meaning as defined in KRS 186.650.

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds.

(7) "Operator" means the person in actual physical control of a vehicle.

(8) "Pedestrian" means any person afoot.

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.

(13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(14) "Sharp curve" means a curve of not less than thirty (30) degrees.

(15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law.

(16) "Steep grade" means a grade exceeding seven percent (7%).

(17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(19) (a) "Vehicle" includes:
  1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and
  2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:
  1. Road rollers;
  2. Road graders;
  3. Farm tractors;
  4. Vehicles on which power shovels are mounted;
  5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;
  6. Vehicles that travel exclusively upon rails;
  7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and
  8. Vehicles propelled by muscular power.

(20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.

(22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.

(24) "All-terrain vehicle" means any motor vehicle for off-road use, which is fifty (50) inches or less in width; has a dry weight of six hundred (600) pounds or less; travels on three (3) or more low pressure tires; is designed for operator use only with no passengers; and has a seat or saddle designed to be straddled by the operator, and handle bars for steering control.

SCR 95, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a Task Force on Historic Properties.

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds are important endeavors in maintaining and enhancing the quality of life of citizens of the Commonwealth of Kentucky; and

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds create many new jobs, create many opportunities to attract new businesses, attract many tourists, and have a positive impact on the economic well-being of the citizens of the Commonwealth of Kentucky; and

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds have played an important role in maintaining and enhancing the business, social, and religious communities throughout the Commonwealth of Kentucky; and

WHEREAS, the responsibility for the preservation and management of historic buildings and grounds owned by the Commonwealth is dispersed among different cabinets and agencies of state government; and

WHEREAS, Kentucky state government officials and the Kentucky General Assembly recognize the need for cooperation, coordination, and long-term planning among agencies with responsibilities for historic buildings and grounds;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives

concurring therein:

Section 1. The Legislative Research Commission is directed to create a Task Force on Historic Properties to conduct a study of the preservation, restoration, maintenance, oversight, and management of historic buildings and grounds owned by the Commonwealth of Kentucky, and to make recommendations relating to centralized management, the development of a long term planning capability, and the development of a comprehensive database of historic properties and grounds to assure that state-owned historic buildings and grounds are preserved, restored, and maintained for future generations.

Section 2. The members of the Task Force on Historic Properties shall include the following sixteen (16) members:

(1) A Senate and a House of Representatives member of the Capital Planning Advisory Board, appointed by the Legislative Research Commission. These members shall serve as co-chairs of the task force;

(2) A Senate and a House of Representatives member of the Appropriations and Revenue Committees, appointed by the Legislative Research Commission;

(3) A member of the Senate and a member of the House of Representatives appointed by the Legislative Research Commission;

(4) Two citizen members with an interest and background in the preservation and maintenance of historic properties appointed by the Legislative Research Commission;

(5) The Commissioner of the Kentucky Department of Parks or his designee;

(6) The Commissioner of the Department of Facilities Management in the Cabinet for Finance and Administration Cabinet or his designee;

(7) The Director of the Division of Historic Properties in the Cabinet for Finance and Administration or his designee;

(8) The Director of the Kentucky Historical Society or his designee;

(9) The Executive Director of the Kentucky Heritage Council or his designee;

(10) The State Budget Director or his designee;

(11) The Dean of the University of Kentucky College of Architecture or his designee; and

(12) The Director of the Forrest C. Pogue Public History Institute at Murray State University or his designee;

Section 3. All state agencies and postsecondary educational institutions shall provide, as requested by the Task Force on Historic Properties, any information and expertise which it has available relative to historic properties and historic preservation.

Section 4. The Task Force on Historic Properties shall make periodic reports to the Capital Planning Advisory Board, and shall present its findings and recommendations to the Capital Planning Advisory Board of the General Assembly no later than July 1, 1999.

Section 5. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget, and are subject to the limitations and other research responsibilities of the Commission.

The House Committee Substitute to **SCR 95** is as follows:

A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a Task Force on Historic Properties.

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds are important endeavors in maintaining and enhancing the quality of life of citizens of the Commonwealth of Kentucky; and

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds create many new jobs, create many opportunities to attract new businesses, attract many tourists, and have a positive impact on the economic well-being of the citizens of the Commonwealth of Kentucky; and

WHEREAS, the preservation, restoration, oversight, and funding of historic buildings and grounds have played an important role in maintaining and enhancing the business, social, and religious communities throughout the Commonwealth of Kentucky; and

WHEREAS, the responsibility for the preservation and management of historic buildings and grounds owned by the Commonwealth is dispersed among different cabinets and agencies of state government; and

WHEREAS, Kentucky state government officials and the Kentucky General Assembly recognize the need for cooperation, coordination, and long-term planning among agencies with responsibilities for historic buildings and grounds;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission is directed to create a Task Force on Historic Properties to conduct a study of the preservation, restoration, maintenance, oversight, and management of historic buildings and grounds owned by the Commonwealth of Kentucky, and to make recommendations relating to centralized management, the development of a long term planning capability, and the development of a comprehensive database of historic properties and grounds to assure that state-owned historic buildings and grounds are preserved, restored, and maintained for future generations.

Section 2. The members of the Task Force on Historic Properties shall include the following eighteen members:

(1) A Senate and a House of Representatives member of the Capital Planning Advisory Board, appointed by the Legislative Research Commission;

(2) A Senate and a House of Representatives member of the Appropriations and Revenue Committees, appointed by the Legislative Research Commission;

(3) A member of the Senate and a member of the House of Representatives appointed by the Legislative Research Commission;

(4) Four citizen members with an interest and background in the preservation and maintenance of historic properties appointed by the Legislative Research Commission;

(5) The Commissioner of the Kentucky Department of Parks or his designee;

(6) The Commissioner of the Department of Facilities Management in the Cabinet for Finance and Administration Cabinet or his designee;

(7) The Director of the Division of Historic Properties in the Cabinet for Finance and Administration or his designee;

(8) The Director of the Kentucky Historical Society or his designee;

(9) The Executive Director of the Kentucky Heritage Council or his designee;

(10) The State Budget Director or his designee;

(11) The Dean of the University of Kentucky College of Architecture or his designee; and

(12) The Director of the Forrest C. Pogue Public History Institute at Murray State University or his designee.

The President of the Senate and the Speaker of the House of Representatives shall each designate co-chairs of the task force from the members of the task force from their respective legislative chambers.

Section 3. All state agencies and postsecondary educational institutions shall provide, as requested by the Task Force on Historic Properties, any information and expertise which it has available relative to historic properties and historic preservation.

Section 4. The Task Force on Historic Properties shall make periodic reports to the Capital Planning Advisory Board, and shall present its findings and recommendations to the Capital Planning Advisory Board of the General Assembly no later than July 1, 1999.

Section 5. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget, and are subject to the limitations and other research responsibilities of the Commission.

Calendar

HCR 131 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 1 to **SB 198**, by Representative Thomas:

On page 3, after line 5, by adding the following:

"Section 3. KRS 95.560 is amended to read as follows:

(1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement.

(2) In order to adjust retirement benefits to the purchasing power of the dollar, the board ***shall if it is actuarially feasible***[~~may~~] annually order an increase in benefits paid pursuant to this section and KRS 95.550. The board ***shall if it is actuarially feasible***[~~may~~] order an increase in benefits by ***an***[~~any~~] amount ***equal***[~~up~~] to the increase in the ***cost-of-living increase for a recipient of Social Security***[~~consumer price index calculated pursuant to KRS 64.527~~], but the annual increase shall not exceed five percent (5%). [~~The board may grant the first increase in 1990.~~]

(3) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for federal Medicare, if providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits.

Section 4. KRS 95.624 is amended to read as follows:

(1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or firefighter has the right of appeal in accordance with the Rules of Civil Procedure.

(2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty percent (50%) of salary plus two percent (2%) of salary for each year in excess of twenty (20). The pension payable for twenty-five (25) years of service shall be sixty percent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty percent (60%) of salary plus three percent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five percent (75%) of salary.

(3) The pensions or benefits paid for disability or death from the policemen's and firefighter's pension fund in cities of the third class shall be as follows:

(a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty, a sum of not more than one-half (1/2) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.

(b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement.

(c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, while unmarried, of one-half (1/2) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars ($24) per month. The board may provide a minimum benefit of no more than four hundred dollars ($400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the fund. The board may increase the minimum benefit pursuant to the terms of subsection (4) of this section. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of one-fourth (1/4) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (1/4) salary.

(4) In order to adjust retirement benefits to the purchasing power of the dollar, the board ***shall if it is actuarially feasible*** ~~[may]~~ annually order an increase in benefits paid pursuant to this section. The board ***shall if it is actuarially feasible*** ~~[may]~~ order an increase in benefits by ***an***~~[any]~~ amount ***equal***~~[up]~~ to the increase in the ***cost-of-living increase for a recipient of Social Security***~~[consumer price index calculated pursuant to KRS 64.527]~~, but the annual increase shall not exceed five percent (5%). ~~[The board may grant the first increase in 1990.]~~

(5) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for federal Medicare, if providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits.".

Floor Amendment No. 1 to **SB 101**, by Representative Palumbo:

On page 3, after line 20 by inserting the following:

"***(8) A city, county, or urban-county government may by ordinance establish roads within their jurisdiction where fines may be doubled for speeding violations established under subsection (5)(a) of this section. The enactment of an ordinance relating to the establishment of roads under this subsection shall be deemed sufficient public notice and additional signing of the roads and the double fine status shall be at the discretion of the local government.***".

Orders of the Day

HB 223, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved the adoption of the Committee Substitute to **HB 223**. Agreed.

Representative Jordan moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 223**. Agreed.

Representative Jordan moved that **HB 223**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 17, 1998 roll call on **HB 223** - Appendix.) **HB 223**, by way of Committee Substitute, was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 223**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 616 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 616** be placed back in the Orders of the Day. Agreed.

HB 771, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 771**. Agreed.

Representative Clarke moved that **HB 771**, as amended, be passed.

On the roll call the vote was: Yeas 49, Nays 39 (See March 17, 1998 roll call on **HB 771** - Appendix.) **HB 771**, as amended, was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 771**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 700, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 700**. Agreed.

Representative Kerr moved that **HB 700**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 17, 1998 roll call on **HB 700** - Appendix.) **HB 700**, as amended, was passed and the title agreed to. Representative Kerr moved that the vote by which **HB 700**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

HB 459 delivered to the Senate and signed by the President. Delivered to the Governor on March 17, 1998 at 2:21 p.m..

Orders of the Day (Continued)

HCR 113, with Committee Substitute and Floor Amendment taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HCR 113** be placed back in the Orders of the Day. Agreed.

HB 66, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 66**. Agreed.

Representative Yonts moved that **HB 66**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 17, 1998 roll call on **HB 66** - Appendix.) **HB 66**, by way of Committee Substitute, was passed and the title agreed to. Representative Yonts moved that the vote by which **HB 66**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 508, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 508**. Agreed.

Representative Brown moved that **HB 508**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 70, Nays 19 (See March 17, 1998 roll call on **HB 508** - Appendix.) **HB 508**, by way of Committee Substitute, was passed and the title agreed to. Representative Brown moved that the vote by which **HB 508**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 547 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 547** be passed.

On the roll call the vote was: Yeas 75, Nays 17 (See March 17 , 1998 roll call on **HB 547** - Appendix.) **HB 547** was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 547** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 177**, by Representative Gray:

On page 19, after line 27, by inserting the following section:

"Section 14. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.75
6 to 10%	1.00
11 to 15%	1.25
16 to 20%	1.50
21 to 25%	1.75
26 to 30%	2.00
31 to 35%	2.25
36% and above	2.50

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

4. For permanent partial disability, if, in the opinion of the administrative law judge, the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, do not adequately address the injured condition of the employee, the administrative law judge shall have the discretion to consider other standardized guidelines, treatises, or other medical evidence in determining disability.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents

qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable."; and

On page 20, line 1, by renumbering "Section 14" as "Section 15".

Orders of the Day (Continued)

HB 697 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lovell moved that **HB 697** be passed.

On the roll call the vote was: Yeas 85, Nays 5 (See March 17, 1998 roll call on **HB 697** - Appendix.) **HB 697** was passed and the title agreed to. Representative Lovell moved that the vote by which **HB 697** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 707, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved the adoption of the Committee Substitute to **HB 707**. Agreed.

Representative Jordan moved that **HB 707**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 1 (See March 17, 1998 roll call on **HB 707** - Appendix.) **HB 707**, by way of Committee Substitute, was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 707**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 719, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 719**. Agreed.

Representative Stein moved that **HB 719**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 17, 1998 roll call on **HB 719** - Appendix.) **HB 719**, by way of Committee Substitute, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 719**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 804, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Committee Amendment No. 1 to **HB 804**. Agreed.

Representative Brown moved the adoption of Committee Amendment No. 2 to **HB 804**. Agreed.

Representative Jenkins moved the adoption of Floor Amendment No. 2 to **HB 804**. Agreed.

Representative Jenkins moved that **HB 804**, as amended, be passed.

On the roll call the vote was: Yeas 43, Nays 47 (See March 17, 1998 roll call on **HB 804** - Appendix.) **HB 804**, as amended, was defeated.

Floor Amendments (Continued)

Floor Amendment No. 2 Title to **SB 5**, by Representative Rasche:

By amending the title to read "AN ACT relating to higher education assistance."

Floor Amendment No. 1 to **SB 5**, by Representative Rasche:

On page 11, line 8, after "Section 7." by inserting the following:

" KRS 164A.080 is amended to read as follows:

(1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding ***nine hundred fifty million dollars ($950,000,000)***~~[five hundred fifty-three million dollars ($553,000,000)]~~ in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.

(3) (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.

(b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

Section 8.";

On page 11, line 10 by changing "Section 8." to "Section 9.".

Orders of the Day (Continued)

HB 297 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 297** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 17, 1998 roll call on **HB 297** - Appendix.) **HB 297** was passed and the title agreed to. Representative Hatcher moved that the vote by which **HB 297** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 864, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of Floor Amendment No. 2 to **HB 864**. Agreed.

Representative Palumbo moved that **HB 864**, as amended, be passed.

Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 864**.

On the roll call the vote was: Yeas 25, Nays 68 (See March 17, 1998, roll call on **HB 864** - Appendix.) Floor Amendment No. 1 to **HB 864** was rejected.

Representative Palumbo moved that **HB 864**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 17, 1998 roll call on **HB 864** - Appendix.) **HB 864**, as amended, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 864**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 344** and **HB 387** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:25 p.m.) **HB 344** and **HB 387** delivered to the Senate and signed by the President. Delivered to the Governor on March 17, 1998 at 3:46 p.m.

Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 177**, by Representative Yonts:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, ***in addition to all other remedies provided under this chapter, the employee may seek all civil remedies available, and*** the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier.; and

On page 20, line 1, by renumbering "Section 14" as "Section 15"."

Orders of the Day (Continued)

HB 904, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of the Committee Substitute to **HB 904**. Agreed.

Representative McKee moved that **HB 904**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 73, Nays 15 (See March 17, 1998 roll call on **HB 904** - Appendix.) **HB 904**, by way of Committee Substitute, was passed and the title agreed to. Representative McKee moved that the vote by which **HB 904**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 117 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HJR 117** be adopted.

On the roll call the vote was: Yeas 84, Nays 1 (See March 17, 1998 roll call on **HJR 117** - Appendix.) **HJR 117** was adopted. Representative Stacy moved that the vote by which **HJR 117** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 462 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 462** be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 17 , 1998 roll call on **HB 462** - Appendix.) **HB 462** was passed and the title agreed to. Representative Damron moved that the vote by which **HB 462** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 119 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 119** be adopted.

On the roll call the vote was: Yeas 91, Nays 1 (See March 17, 1998 roll call on **HCR 119** - Appendix.) **HCR 119** was adopted. Representative Gray moved that the vote by which **HCR 119** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 882, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 882**. Agreed. Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 882**. Agreed.

Representative Barrows moved that **HB 882**, as amended, be passed.

On the roll call the vote was: Yeas 38, Nays 54 (See March 17, 1998 roll call on **HB 882** - Appendix.) **HB 882**, as amended, was defeated.

HB 696 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved that **HB 696** be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 17, 1998 roll call on **HB 696** - Appendix.) **HB 696** was passed and the title agreed to. Representative Johns moved that the vote by which **HB 696** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 285**. Agreed. Representative Coleman moved the adoption of Committee Amendment No. 1 to **HB 285**. Agreed. Representative Coleman moved the adoption of Floor Amendment No. 1 to **HB 285**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 2 to **HB 285**. Agreed.

Representative Coleman moved that **HB 285**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 17 (See March 17, 1998 roll call on **HB 285** - Appendix.) **HB 285**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 285**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 779 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Speaker Pro-Tempore L. Clark assumed the Chair.

Representative Curd moved that **HB 779** be passed.

On the roll call the vote was: Yeas 85, Nays 6 (See March 17, 1998 roll call on **HB 779** - Appendix.) **HB 779** was passed and the title agreed to. Representative Curd moved that the vote by which **HB 779** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 113, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Geveden moved the adoption of the Committee Substitute to **HCR 113**. Agreed. Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HCR 113**. Agreed.

Representative Geveden moved that **HCR 113**, by way of Committee Substitute as amended, be passed.

The Speaker resumed the Chair.

On the roll call the vote was: Yeas 85, Nays 5 (See March 17, 1998 roll call on **HCR 113** - Appendix.) **HCR 113**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Geveden moved that the vote by which **HCR 113**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 782, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **HB 782**. Agreed.

Representative Riggs moved that **HB 782**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 17, 1998 roll call on **HB 782** - Appendix.) **HB 782**, by way of Committee Substitute, was passed. Representative Riggs moved the adoption of the Committee Amendment No. 1 Title to the Committee Substitute to **HB 782**. Agreed; and the title was agreed to. Representative Riggs moved that the vote by which **HB 782**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 595, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brandstetter moved the adoption of Floor Amendment No. 1 to **HB 595**. Agreed.

Representative Brandstetter moved that **HB 595**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 17, 1998 roll call on **HB 595** - Appendix.) **HB 595**, as amended, was passed and the title agreed to. Representative Brandstetter moved that the vote by which **HB 595**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HJR 92** be taken from the Clerk's Desk and placed in the Orders of the Day. Agreed.

HJR 92, with Committee Substitute, Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Worthington moved that **HJR 92**, by way of Committee Substitute as amended, be adopted.

On the roll call the vote was: Yeas 89, Nays 0 (See March 17, 1998 roll call on **HJR 92** - Appendix.) **HJR 92**, by way of Committee Substitute as amended, was adopted. Representative Worthington moved that the vote by which **HJR 92**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 786, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the Committee Substitute to **HB 786**. Agreed.

Representative Cave moved that **HB 786**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See March 17, 1998 roll call on **HB 786** - Appendix.) **HB 786**, by way of Committee Substitute, was passed and the title agreed to. Representative Cave moved that the vote by which **HB 786**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 863** be posted for passage in the Orders of the Day. Agreed.

Representative Stumbo moved that the posting be waived on **SB 205** and same be reassigned to Appropriations and

Revenue. Agreed.

Representative Stumbo moved that the posting be waived retroactively on **SB 276** and **SB 326**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 134, by Representative Brown: A RESOLUTION urging the Interim Joint Committee on Labor and Industry to establish a subcommittee to study the feasibility and implementation of a contractor certification program.

HR 135, by Representative Lee: A RESOLUTION adjourning the House of Representatives in honor of the Elizabethtown Lady Panthers basketball team.

HR 136, by Representatives Colter, Rader, Pope, Turner, Alexander, Bowling, Siler, and Stewart: A RESOLUTION urging the Transportation Cabinet to review the need to redesign and reconstruct all or parts of the Daniel Boone Parkway to address safety concerns, reduce motor vehicle accidents, and increase economic development opportunities.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **SB 128**

Agriculture and Small Business: **SB 307**

Banking and Insurance: **SB 339**

Transportation: **SB 31, SB 130, SB 151, SB 395, SJR 87**

Report of Committees (Continued)

The Committee on Natural Resources and Environment reported **SB 164, SB 214**, with Committee Substitute attached thereto, and **SJR 118** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 164, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4)[~~"Commission" means the Petroleum Storage Tank Environmental Assurance Fund Commission;~~

~~(5)~~] "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5)[~~(6)~~] "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6)[~~(7)~~] "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(7)[~~(8)~~] "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the

Resource Conservation and Recovery Act;

(8)[~~(9)~~] "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(9)[~~(10)~~] "Fund" means the petroleum storage tank environmental assurance fund established pursuant to KRS 224.60-140;

(10)[~~(11)~~] "Gasoline" means gasoline as defined in KRS 138.210(4);

(11)[~~(12)~~] "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(12)[~~(13)~~] "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.

4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of Aeronautics.
   (g) Office of General Counsel.
   (h) Office of Public Relations.
   (i) Office of Personnel Management.
   (j) Office of Minority Affairs.
   (k) Office of Environmental Affairs.
5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department of Job Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) Tobacco Research Board.
   (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
   (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Human Resources:
   (a) Department for Health Services.
   (b) Department for Social Insurance.
   (c) Department for Social Services.
   (d) Department for Medicaid Services.
   (e) Department for Mental Health and Mental Retardation Services.
   (f) Commission for Children with Special Health Care Needs.
   (g) Public Assistance Appeals Board.
   (h) Office of Administrative Services.
   (i) Office of Communications.
   (j) Office of General Counsel.
   (k) Office of Inspector General.
   (l) Office of Policy and Budget.

(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
    (a) Office of Legal and Legislative Services.
    (b) Office of Management and Budget.
    (c) Office of Financial Management and Economic Analysis.
    (d) Office of the Controller.
    (e) Department for Administration.
    (f) Department of Facilities Management.
    (g) Department of Information Systems.
    (h) State Property and Buildings Commission.
    (i) Kentucky Pollution Abatement Authority.
    (j) Kentucky Savings Bond Authority.
    (k) Deferred Compensation Systems.
    (l) Office of Equal Employment Opportunity Contract Compliance.
    (m) Capital Plaza Authority.
    (n) County Officials Compensation Board.
    (o) Kentucky Employees Retirement Systems.
    (p) Commonwealth Credit Union.
    (q) State Investment Commission.
    (r) Kentucky Housing Corporation.
    (s) Governmental Services Center.
    (t) Kentucky Local Correctional Facilities Construction Authority.
    (u) Kentucky Turnpike Authority.
    (v) Historic Properties Advisory Commission.

9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor Management Relations.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Compliance and Taxpayer Assistance.
    (c) Department of Administrative Services.
    (d) Office of General Counsel.

11. Tourism Cabinet:
    (a) Department of Travel Development.

(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 3. KRS 224.60-130 is amended to read as follows:

(1) ***There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund***[~~The commission shall be created within sixty (60) days from April 9, 1990~~].

(2) The ***Office of Petroleum Storage Tank Environmental Assurance Fund***[~~commission~~] shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***office***[~~commission~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***office***[~~commission~~] shall establish a range of amounts to be paid from the fund and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***office***[~~commission~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***office***[~~commission~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS

224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***office***[~~commission~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the fund and receive reimbursement from the fund. The ***office***[~~commission~~] may establish eligibility criteria based upon the financial ability of the petroleum storage tank owner or operator. In promulgating administrative regulations to carry out this section, the ***office***[~~commission~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal government for petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The amount to be maintained in this account shall be established by the ***office***[~~commission~~]. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***office***[~~commission~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***office***[~~commission~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. This account shall not be used to compensate third parties for bodily injury and property damage. The ***office***[~~commission~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***office***[~~commission~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***office***[~~commission~~] regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform an actuarial study, no less than every two (2) years, that recommends to the ***office***[~~commission~~] an actuarially sound entry level to the fund prior to two (2) years from April 9, 1990. The ***office***[~~commission~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund and the procurement of legal services; ***and***

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***office***[~~commission~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks[~~; and~~

~~(k) Be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes~~].

[~~(3) The commission shall hold at least four (4) regular meetings each calendar year at a place and time to be fixed by the commission. The commission shall also meet at the request of the chairman of the commission or upon a written request of three (3) members of the commission. Six (6) members constitute a quorum, and a quorum may act for the commission in all matters.~~]

(3)[~~(4)~~] The ***office***[~~commission~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(4)[~~(5)~~] The ***office***[~~commission~~] may sue and be sued in its own name.

Section 4. KRS 224.60-120 is amended to read as follows:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be twenty-five thousand dollars ($25,000) per occurrence for taking corrective action and twenty-five thousand dollars ($25,000) per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be five thousand dollars ($5,000) per occurrence for taking corrective action and five thousand ($5,000) dollars per occurrence for compensating third parties for bodily injury and property damage.

(c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be one thousand dollars ($1,000) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the ***office***[~~commission~~].

(3) To qualify as a self-insurer the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The ***office***[~~commission~~] shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the ***office***[~~commission~~] shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section.

Section 5. KRS 224.60-137 is amended to read as follows:

(1) The ***office***[~~commission~~] shall have a study performed to identify appropriate standards for corrective action for a release into the environment from a petroleum storage tank. The study shall address, but not be limited to, standards for levels of petroleum contamination, including lead, requiring corrective action to adequately protect human health, safety, and the environment consistent with accepted scientific and technical principles and federal law. The standards shall take into account distances to environmentally sensitive features, including surface waters, wetlands, nature preserves, protected ecological areas, springs and wells used for domestic water supply, and well head protection areas. The ***office***[~~commission~~] shall contract with a person or persons to perform the study qualified in the areas of engineering, hydrogeology, geology, toxicology, epidemiology, biology, public health, chemistry, and risk assessment. The ***office***[~~commission~~] shall provide for the October 18, 1993 study performed by the University of Kentucky to be completed within one hundred twenty (120) days of April 11, 1994, to comply with the requirements of this subsection.

(2) The ***office***[~~commission~~] shall contract with the University of Kentucky, or another person or persons having the qualifications established in subsection (1) of this section, to recommend revisions or amendments to the study based upon new information or changes in federal law, and to review and comment to the ***office***[~~commission~~] upon the consistency with the completed study of administrative regulations proposed by the cabinet pursuant to subsection (3) of this section. The person contracted with to recommend revisions or amendments to the study shall identify in writing any inconsistencies of the draft administrative regulations required by subsection (4) of this section with the completed study. The cabinet shall comment to the ***office***[~~commission~~] on the completed study report and any proposed revisions or amendments to the study. The ***office***[~~commission~~] shall approve the completed study report and any revisions or amendments to the study.

(3) The cabinet shall, by administrative regulation, establish standards for corrective action for a release into the environment from a petroleum storage tank. The administrative regulations shall adequately protect human health, safety

and the environment, and shall incorporate the study performed for the ***office***[~~commission~~], except as necessary to comply with federal law or as provided in subsection (4) of this section.

(4) Within ninety (90) days of the receipt of the completed study report the cabinet shall prepare draft administrative regulations for submission to and review by the person performing the study. The comments required pursuant to subsection (2) of this section shall be filed with the ***office***[~~commission~~] and the cabinet within sixty (60) days of receipt of the draft administrative regulations by the ***office***[~~commission~~]. If any inconsistencies are identified, the person conducting the review and the cabinet shall confer to resolve the inconsistencies, and report to the ***office***[~~commission~~] within sixty (60) days. If the person conducting the review and the cabinet are unable to resolve the inconsistencies, the cabinet and the ***office***[~~commission~~] shall appoint an independent peer review group to resolve the inconsistencies and recommend amendments to the draft administrative regulations within sixty (60) days of appointment. The peer review group shall be appointed by agreement of the cabinet and the ***office***[~~commission~~]. The cabinet shall amend the draft administrative regulations to incorporate the amendments recommended by the peer review group and file the administrative regulations with the Legislative Research Commission within sixty (60) days of receipt. The administrative regulations shall be promulgated pursuant to the provisions of KRS Chapter 13A.

(5) Notwithstanding any provisions of law or KRS Chapter 13A to the contrary, the emergency administrative regulations filed by the cabinet in February 1994 shall remain in effect until the administrative regulations required by subsection (3) of this section are adopted and effective pursuant to the provisions of KRS 13A.330.

Section 6. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

(a) Any interest earned upon money deposited in the fund;

(b) Money appropriated by the General Assembly for deposit in the fund;

(c) Any money recovered by the fund pursuant to this section; and

(d) Any money collected in the form of penalties levied pursuant to KRS 224.60-155.

(2) Money in the fund may be used by the ***office***[~~commission~~] for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action as the result of a release into the environment from a petroleum storage tank;

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable costs incurred by the ***office***[~~commission~~] in administering the fund;

(d) Payment to the cabinet of the costs of implementing the tank registration required by KRS 224.60-142; and

(e) To operate the small operators' assistance account pursuant to KRS 224.60-130(2)(d) and the small operators' tank removal account pursuant to KRS 224.60-130(2)(j).

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the ***office***[~~commission~~] for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the ***office***[~~commission~~].

(7) The ***office***[~~commission~~] or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the ***office***[~~commission~~] from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the ***office's***[~~commission's~~] cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the

petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsection (8) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the ***office***[~~commission~~] pursuant to this section shall be deposited in the fund.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

Section 7. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at a rate up to but not to exceed one and four-tenths cent ($0.014) for each gallon.

(5) The ***office***[~~commission~~] shall review the unobligated fund balance at least quarterly and report to the Revenue Cabinet the rate of the fee to be applied for the next quarter.

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Revenue Cabinet shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

Section 8. The following KRS section is repealed:

224.60-125 Petroleum Storage Tank Environmental Assurance Fund Commission.

Section 9. Executive Order 96-485, as modified and superseded by Executive Order 96-591, dated May 13, 1996, is confirmed to the extent that it is not otherwise confirmed by this Act.

SB 214, AN ACT relating to the Kentucky Forest Conservation Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act, unless the context requires otherwise:

(1) "Best management practices" means effective, practical, economical, structural, or nonstructural methods that prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or groundwater, or that otherwise protect water quality from potential adverse effects of timber harvesting operations as developed by the Division of Forestry and approved by the Agriculture Water Quality Authority;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Director" means the director of the Division of Forestry;

(4) "Division" means the Division of Forestry;

(5) "Logger" means any person who conducts timber harvesting operations for commercial purposes;

(6) "Operator" means any person who operates or exercises control over any timber harvesting operations;

(7) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or business organization, and any agency or instrumentality of federal, state, or local government, including any publicly-owned utility or any publicly-owned corporation of federal, state, or local government;

(8) "Timber harvesting operations" means activities directly related to the cutting or removal of trees from the forest as a raw material for commercial processes or purposes, including timber preharvesting and postharvesting activities associated with the implementation of appropriate best management practices. "Timber harvesting operations" does not include:

(a) The cutting of firewood;

(b) The cutting of evergreens grown for and cut for the traditional Christmas holiday season;

(c) The cutting of trees incidental to clearing for coal mining or farm purposes or incidental to ground-disturbing construction activities, including well sites, and access roads and gathering lines for oil and natural gas operations;

(d) The cutting of trees for maintaining existing, or during construction of, rights-of-way for public highways or public utilities, unless those trees are being sold or provided as raw material for commercial wood product purposes;

(e) The cutting of trees for individual noncommercial use, or

(f) The cutting of forty thousand (40,000) board feet or less of timber for commercial purpose or sale by a landowner on his own land within twelve (12) successive calendar months; and

(9) "Water pollution" has the same meaning as in KRS 224.01-010.

SECTION 2. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds, determines, and declares as follows:

(1) Healthy, sustainable forests that are ecologically sound provide economic opportunities and benefit the overall quality of life for all Kentuckians;

(2) High quality forests provide clean air and water and biodiversity;

(3) A diverse forest economy must include forest product industries, recreation, and tourism;

(4) Timber harvesting operations must be conducted in an ecologically sound manner; and

(5) Kentucky must promote the stewardship of its public and private forest lands while recognizing the rights and responsibilities of private landowners;

(6) Comprehensive continuous forest inventories are needed to provide information to make decisions to meet present and future needs;

(7) Increased awareness of the economic, social, and ecological importance of Kentucky's forests is needed to:

(a) Educate the public and industry in order to make wise decisions for the future of the forest resource; and

(b) Recognize and respond to threats to the forest resource;

(8) It is the purpose of Sections 1 to 10 of this Act to provide private landowners and loggers with education, technical assistance, and incentives that encourage them to manage their properties and carry out timber harvesting operations that will assure sustainable forests in the Commonwealth.

(9) Sections 1 to 10 of this Act shall not be construed as repealing any of the laws of the Commonwealth relating to environmental protection or forestry, but shall be held and construed as ancillary and supplemental thereto.

SECTION 3. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

In addition to any other powers and duties vested in it by law, the cabinet has the authority, power, and duty to:

(1) Promote the sustainability of Kentucky's forest ecosystems;

(2) Improve, maintain, and protect the health and condition of Kentucky's forest resources;

(3) Promote the most efficient utilization of forest resources;

(4) Provide educational opportunities to increase landowner, logger, and public appreciation, awareness, and knowledge of Kentucky's forests; and

(5) Promulgate administrative regulations under KRS Chapter 13A to accomplish the purposes of Sections 1 to 10 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the division an information and education program for the following purposes:

  (a) To develop public awareness of the importance of the forests of Kentucky;

  (b) To promote forest stewardship and sound forest utilization practices of private woodland owners and the forest industry; and

  (c) To coordinate with other agencies and organizations to assure effective, long-term forest conservation programs.

(2) The division shall implement an educational program that emphasizes sustainable forests and the full range of economic, ecological, and social opportunities provided by privately owned forests by:

  (a) Sponsoring field days that enable individual woodland owners to recognize and resolve problems that they encounter in dealing with their woodland resources;

  (b) Developing demonstration programs involving forests and management of forest ecosystems including urban forests;

  (c) Developing and implementing programs that give special attention to educational needs of small, private, nonindustrial forest landowners; and

  (d) Supporting the Kentucky Cooperative Extension Service in promoting and conducting technology transfer education programs specifically for woodland owners.

SECTION 5. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) The division shall maintain an inventory of Kentucky's forests and provide a report on the status of Kentucky's forests on a biennial basis. The status report shall address, at a minimum, timber growth and removal, commercial species composition, timber quality, market information, forest health, and industry activity. The division shall cooperate with the U.S. Forest Service in carrying out the provisions of this subsection.

(2) In order to have accurate, current, and complete information and data, the division shall:

  (a) Assist the implementation of the Southern Annual Forest Inventory System by supplying five (5) two-person crews to perform annual data collection;

  (b) Develop and implement annual surveys of mills, landowners, timber buyers, and other appropriate entities to determine levels of harvesting and timber and log prices; and

  (c) Use Geographic Information System (GIS) technology and ensure coordination with statewide GIS efforts.

SECTION 6. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

There is established a Forest Stewardship Incentives Fund to be administered by the division. Monies from the fund shall be used for cost-share programs to provide financial assistance to landowners for the development of stewardship plans, and for stewardship practices, including, but not limited to, reforestation and afforestation, forest improvement, soil and water protection and improvement, riparian and wetland protection and improvement, wildlife habitat improvement and permanent wildlife planting, and forest recreation enhancement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) After two (2) years from the effective date of this Act, no person shall conduct timber harvesting operations within the Commonwealth unless there is on the site during the timber harvesting operations at least one (1) logger in charge of the harvest who has successfully completed the Master Logger Program.

(2) After successful completion of the Master Logger Program, continuing education shall be required of the loggers every three (3) years.

(3) The cabinet shall specify the education and training requirements for the Master Logger Program as developed by the University of Kentucky, the Kentucky Forest Industries Association, and the division, shall specify the

requirements for continuing education, and, may establish a basic fee for the program that bears a reasonable relationship to the cost of training.

(4) The division shall maintain a current list of all loggers who have successfully completed the Master Logger Program and required continuing education, and shall make the list available to the public.

(5) Loggers who have previously completed the Kentucky Master Logger Program are considered to be in compliance with subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) years from the effective date of this Act, any logger or operator engaged in the conduct of any timber harvesting operations shall use appropriate best management practices.

(2) No logger or operator shall conduct any timber harvesting operations in a manner that is causing or will likely cause water pollution.

(3) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices or is causing water pollution, the cabinet shall give the logger or operator a written warning of the facts alleged to constitute the failure to use the best management practice or the water pollution, and a reasonable period for abatement and compliance.

(4) If, after the time for abatement in the written warning, the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the logger or operator will be provided an opportunity for an informal conference with the district forester. After the opportunity for an informal conference, if the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the cabinet shall issue a notice of violation stating the best management practice that the logger or operator has failed to implement or the facts alleged to constitute the water pollution, and order the logger or operator to implement corrective measures within a specified period of time.

(5) If, after the issuance of a notice of violation, the logger or operator fails to implement the best management practice or corrective measures, the cabinet shall issue a special order mandating the logger or operator to immediately implement the best management practice or the corrective measures. The cabinet may also order the logger or operator to cease all or a portion of the timber harvesting operation constituting the violation, and if the cabinet does so, the logger or operator shall cease all or a portion of the timber harvesting operation, until an inspection determines that the violation has been abated. At the time the special order is issued, the cabinet shall notify the logger or operator of the opportunity for an administrative hearing under subsection (2) of Section 9 of this Act, to be held within five (5) working days of the receipt of a written request made by the logger or operator.

(6) If the cabinet finds that any logger or operator is conducting any timber harvesting operations in violation of subsection (1) of Section 7 of this Act or in a manner that is causing or is likely to cause water pollution that is presenting or will likely present an imminent and substantial danger to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life, or to a public water supply, or to recreational, commercial, agricultural, or industrial uses, the cabinet may issue an emergency order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under subsection (2) of Section 9 of this Act to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), or (5) of this section shall not preclude the cabinet from issuing an emergency order under this subsection.

(7) Notification under this section shall be by certified mail, return receipt requested, sent to the last known address of the logger or operator, or by hand delivery by the cabinet.

(8) If the logger or operator fails or refuses to cease activity or comply with and implement the best management practices or corrective measures in a special order issued under subsection (5) of this section or fails to cease activity and implement corrective measures in an emergency order under subsection (6) of this section, unless extended by the cabinet, the logger or operator shall be deemed a bad actor and shall be subject to civil penalties under Section 10 of this Act after an opportunity for a hearing under Section 9 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet has evidence that a violation of subsection (1) of Section 7 of this Act has occurred, or has deemed a logger or operator to be a bad actor under subsection (8) of Section 8 of this Act, the cabinet shall serve written notice of the determination and the provision alleged to have been violated and the cabinet shall require the person complained against to answer the charges at an administrative hearing to be held not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period.

(2) Any person not previously heard who considers himself aggrieved by any determination of the cabinet under Sections 1 to 10 of this Act, may file a petition alleging that the determination is contrary to law or fact and is injurious to him, citing the grounds and reasons therefor, and demanding an administrative hearing. Unless the cabinet considers the petition frivolous, it shall schedule an administrative hearing before the cabinet not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period, except that hearings requested under subsections (5) and (6) of Section 8 of this Act shall be held within five (5) working days of receipt of a petition. The right to demand a hearing under this subsection shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could have had notice. The cabinet shall be represented at the administrative hearing by the Office of Legal Services.

(3) All hearings under Sections 1 to 10 of this Act shall be conducted under KRS 224.10-440. Appeals may be taken from all final orders under KRS 224.10-470.

SECTION 10. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

Any operator or logger who is deemed by the division to be a bad actor under subsection (8) of Section 8 of this Act or who violates subsection (1) of Section 7 of this Act may, after an opportunity for an administrative hearing, be assessed a civil penalty not to exceed five thousand dollars ($5,000) for each violation. In determining the amount of the penalty, consideration shall be given to the operator's or logger's history of noncompliance; the seriousness of the violation and any damage caused, including any irreparable harm to the environment or hazard to public health or safety or the health and safety of animals, fish, or aquatic life; the degree of fault and whether the conduct was intentional or negligent; and the demonstrated good faith in remedying the pollution. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Office of Legal Services. All sums recovered shall be deposited in the Forest Stewardship Incentives Fund. The Circuit Court in the county in which the violation occurred shall have jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of Sections 1 to 10 of this Act or the orders and administrative regulations promulgated by the cabinet.

SECTION 11. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act may be cited as the "Kentucky Forest Conservation Act."

The Committee Substitute to **SB 214** is as follows:

AN ACT relating to the Kentucky Forest Conservation Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act, unless the context requires otherwise:

(1) "Best management practices" means effective, practical, economical, structural, or nonstructural methods that prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or groundwater, or that otherwise protect water quality from potential adverse effects of timber harvesting operations as developed by the Division of Forestry and approved by the Agriculture Water Quality Authority;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Director" means the director of the Division of Forestry;

(4) "Division" means the Division of Forestry;

(5) "Logger" means any person who conducts timber harvesting operations for commercial purposes;

(6) "Operator" means any person who operates or exercises control over any timber harvesting operations;

(7) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or business organization, and any agency or instrumentality of federal, state, or local government, including any publicly-owned utility or any publicly-owned corporation of federal, state, or local government;

(8) "Timber harvesting operations" means activities directly related to the cutting or removal of trees from the forest as a raw material for commercial processes or purposes, including timber preharvesting and postharvesting activities associated with the implementation of appropriate best management practices. "Timber harvesting operations" does not include:

(a) The cutting of firewood;

(b) The cutting of evergreens grown for and cut for the traditional Christmas holiday season;

(c) The removal of trees incidental to clearing for coal mining or farm purposes or incidental to ground-disturbing construction activities, including well sites, and access roads and gathering lines for oil and natural gas operations;

(d) The cutting of trees for maintaining existing, or during construction of, rights-of-way for public highways or public utilities, unless those trees are being sold or provided as raw material for commercial wood product purposes; or

(e) The cutting of trees by an individual, nonindustrial landowner on his own property, if the cutting is performed by the individual, nonindustrial landowner; and

(9) "Water pollution" has the same meaning as in KRS 224.01-010.

SECTION 2. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds, determines, and declares as follows:

(1) Healthy, sustainable forests that are ecologically sound provide economic opportunities and benefit the overall quality of life for all Kentuckians;

(2) High quality forests provide clean air and water and biodiversity;

(3) A diverse forest economy must include forest product industries, recreation, and tourism;

(4) Timber harvesting operations must be conducted in an ecologically sound manner; and

(5) Kentucky must promote the stewardship of its public and private forest lands while recognizing the rights and responsibilities of private landowners;

(6) Comprehensive continuous forest inventories are needed to provide information to make decisions to meet present and future needs;

(7) Increased awareness of the economic, social, and ecological importance of Kentucky's forests is needed to:

(a) Educate the public and industry in order to make wise decisions for the future of the forest resource; and

(b) Recognize and respond to threats to the forest resource;

(8) It is the purpose of Sections 1 to 10 of this Act to provide private landowners and loggers with education, technical assistance, and incentives that encourage them to manage their properties and carry out timber harvesting operations that will assure sustainable forests in the Commonwealth.

(9) Sections 1 to 10 of this Act shall not be construed as affecting the requirements of any other laws of the Commonwealth relating to environmental protection, including water quality or forestry.

SECTION 3. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

In addition to any other powers and duties vested in it by law, the cabinet has the authority, power, and duty to:

(1) Promote the sustainability of Kentucky's forest ecosystems;

(2) Improve, maintain, and protect the health and condition of Kentucky's forest resources;

(3) Promote the most efficient utilization of forest resources;

(4) Provide educational opportunities to increase landowner, logger, and public appreciation, awareness, and knowledge of Kentucky's forests; and

(5) Promulgate administrative regulations under KRS Chapter 13A to accomplish the purposes of Sections 1 to 10 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the division an information and education program for the following purposes:

(a) To develop public awareness of the importance of the forests of Kentucky;

(b) To promote forest stewardship and sound forest utilization practices of private woodland owners and the forest industry; and

(c) To coordinate with other agencies and organizations to assure effective, long-term forest conservation programs.

(2) The division shall implement an educational program that emphasizes sustainable forests and the full range of economic, ecological, and social opportunities provided by privately owned forests by:

(a) Sponsoring field days that enable individual woodland owners to recognize and resolve problems that they encounter in dealing with their woodland resources;

(b) Developing demonstration programs involving forests and management of forest ecosystems including urban forests;

(c) Developing and implementing programs that give special attention to educational needs of small, private, nonindustrial forest landowners; and

(d) Supporting the Kentucky Cooperative Extension Service in promoting and conducting technology transfer

education programs specifically for woodland owners.

SECTION 5. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) The division shall maintain an inventory of Kentucky's forests and provide a report on the status of Kentucky's forests on a biennial basis. The status report shall address, at a minimum, timber growth and removal, commercial species composition, timber quality, market information, forest health, and industry activity. The division shall cooperate with the U.S. Forest Service in carrying out the provisions of this subsection.

(2) In order to have accurate, current, and complete information and data, the division shall:

- *(a) Assist the implementation of the Southern Annual Forest Inventory System by supplying five (5) two-person crews to perform annual data collection;*
- *(b) Develop and implement annual surveys of mills, landowners, timber buyers, and other appropriate entities to determine levels of harvesting and timber and log prices; and*
- *(c) Use Geographic Information System (GIS) technology and ensure coordination with statewide GIS efforts.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

There is established a Forest Stewardship Incentives Fund to be administered by the division. Monies from the fund shall be used for cost-share programs to provide financial assistance to landowners for the development of stewardship plans, and for stewardship practices, including, but not limited to, reforestation and afforestation, forest improvement, soil and water protection and improvement, riparian and wetland protection and improvement, wildlife habitat improvement and permanent wildlife planting, and forest recreation enhancement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) After two (2) years from the effective date of this Act, no person shall conduct timber harvesting operations within the Commonwealth unless there is on the site during the timber harvesting operations at least one (1) logger in charge of the harvest who has successfully completed the Master Logger Program.

(2) After successful completion of the Master Logger Program, continuing education shall be required of the loggers every three (3) years.

(3) The cabinet shall specify the education and training requirements for the Master Logger Program as developed by the University of Kentucky, the Kentucky Forest Industries Association, and the division, shall specify the requirements for continuing education, and, may establish a basic fee for the program that bears a reasonable relationship to the cost of training.

(4) The division shall maintain a current list of all loggers who have successfully completed the Master Logger Program and required continuing education, and shall make the list available to the public.

(5) Loggers who have previously completed the Kentucky Master Logger Program are considered to be in compliance with subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) years from the effective date of this Act, any logger or operator engaged in the conduct of any timber harvesting operations shall use appropriate best management practices.

(2) No logger or operator shall conduct any timber harvesting operations in a manner that is causing or will likely cause water pollution.

(3) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices or is causing water pollution, the cabinet shall give the logger or operator a written warning of the facts alleged to constitute the failure to use the best management practice or the water pollution, and a reasonable period for abatement and compliance.

(4) If, after the time for abatement in the written warning, the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the logger or operator will be provided an opportunity for an informal conference with the district forester. After the opportunity for an informal conference, if the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the cabinet shall issue a notice of violation stating the best management practice that the logger or operator has failed to implement or the facts alleged to constitute the water pollution, and order the logger or operator to implement corrective measures within a specified period of time.

(5) If, after the issuance of a notice of violation, the logger or operator fails to implement the best management practice or corrective measures, the cabinet shall issue a special order mandating the logger or operator to immediately implement the best management practice or the corrective measures. The cabinet may also order the logger or operator to cease all or a portion of the timber harvesting operation constituting the violation, and if the cabinet does so, the logger or operator shall cease all or a portion of the timber harvesting operation, until an inspection

determines that the violation has been abated. At the time the special order is issued, the cabinet shall notify the logger or operator of the opportunity for an administrative hearing under subsection (2) of Section 9 of this Act, to be held within five (5) working days of the receipt of a written request made by the logger or operator.

(6) If the cabinet finds that any logger or operator is conducting any timber harvesting operations in violation of subsection (1) of Section 7 of this Act or in a manner that is causing or is likely to cause water pollution that is presenting or will likely present an imminent and substantial danger to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life, or to a public water supply, or to recreational, commercial, agricultural, or industrial uses, the cabinet may issue an emergency order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under subsection (2) of Section 9 of this Act to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), or (5) of this section shall not preclude the cabinet from issuing an emergency order under this subsection.

(7) Notification under this section shall be by certified mail, return receipt requested, sent to the last known address of the logger or operator, or by hand delivery by the cabinet.

(8) If the logger or operator fails or refuses to cease activity or comply with and implement the best management practices or corrective measures in a special order issued under subsection (5) of this section or fails to cease activity and implement corrective measures in an emergency order under subsection (6) of this section, unless extended by the cabinet, the logger or operator shall be deemed a bad actor and shall be subject to civil penalties under Section 10 of this Act after an opportunity for a hearing under Section 9 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet has evidence that a violation of subsection (1) of Section 7 of this Act has occurred, or has deemed a logger or operator to be a bad actor under subsection (8) of Section 8 of this Act, the cabinet shall serve written notice of the determination and the provision alleged to have been violated and the cabinet shall require the person complained against to answer the charges at an administrative hearing to be held not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period.

(2) Any person not previously heard who considers himself aggrieved by any determination of the cabinet under Sections 1 to 10 of this Act, may file a petition alleging that the determination is contrary to law or fact and is injurious to him, citing the grounds and reasons therefor, and demanding an administrative hearing. Unless the cabinet considers the petition frivolous, it shall schedule an administrative hearing before the cabinet not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period, except that hearings requested under subsections (5) and (6) of Section 8 of this Act shall be held within five (5) working days of receipt of a petition. The right to demand a hearing under this subsection shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could have had notice. The cabinet shall be represented at the administrative hearing by the Office of Legal Services.

(3) All hearings under Sections 1 to 10 of this Act shall be conducted under KRS 224.10-440. Appeals may be taken from all final orders under KRS 224.10-470.

SECTION 10. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

Any operator or logger who is deemed by the division to be a bad actor under subsection (8) of Section 8 of this Act or who violates subsection (1) of Section 7 of this Act may, after an opportunity for an administrative hearing, be assessed a civil penalty not to exceed five thousand dollars ($5,000) for each violation. In determining the amount of the penalty, consideration shall be given to the operator's or logger's history of noncompliance; the seriousness of the violation and any damage caused, including any irreparable harm to the environment or hazard to public health or safety or the health and safety of animals, fish, or aquatic life; the degree of fault and whether the conduct was intentional or negligent; and the demonstrated good faith in remedying the pollution. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Office of Legal Services. All sums recovered shall be deposited in the Forest Stewardship Incentives Fund. The Circuit Court in the county in which the violation occurred shall have concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of Sections 1 to 10 of this Act or the orders and administrative regulations promulgated by the cabinet.

SECTION 11. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act may be cited as the "Kentucky Forest Conservation Act."

SJR 118, A JOINT RESOLUTION directing the Kentucky Coal Marketing and Export Council to conduct a review of incentives appropriate to encourage the mining of economically marginal seams of coal.

WHEREAS, the mission of the Council includes advising the Governor on areas critical to marketing Kentucky coal and educating the public about coal; and

WHEREAS, a significant portion of Kentucky's coal reserves contain a high percentage of sulfur, which renders them unmarketable, and a significant portion of Kentucky's coal reserves, which have been previously mined and unreclaimed, have a potential to be remined; and

WHEREAS, the present state of the Kentucky coal industry does not allow for the economical mining of thin coal seams, high sulfur coal seams, or seams potentially available for remining; and

WHEREAS, it is to the benefit of the Commonwealth to maximize the mining of its natural resources; and

WHEREAS, the competing coal states have enacted legislation to encourage the mining of thin coal seams, high sulfur coal seams, or seams potentially available for remining; and

WHEREAS, coal mining is and will continue to be a major employer in eastern and western Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Coal Marketing and Export Council shall review incentives to encourage the mining of economically marginal seams of coal, which may be defined as thin seams, seams with high sulfur content, or seams where mining has previously occurred. The economics of coal markets and methods of coal conveyance may also be reviewed.

Section 2. The Council shall report its findings to the Interim Joint Committee on Agriculture and Natural Resources no later than one hundred eighty (180) days prior to the convening of the General Assembly in Regular Session in the year 2000.

Motions, Petitions and Communications (Continued)

Representative Bowling moved the adoption of the following **Legislative Citation No. 169**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Eastend Intermediate School upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 Kentucky General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join Representative Mike Bowling in welcoming the members of Middlesboro Intermediate to the Chambers of the House of Representatives and in wishing them success in all future academic endeavors. **Legislative Citation No. 169** was adopted without objection.

Representative Palumbo moved that the rules be suspended to withdraw **HB 604**. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 91**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the members of the Youth Leadership of Mercer County. The members of this august body are delighted to join Representative Jack Coleman, Jr. in paying tribute to this esteemed program designed to foster leadership abilities, exemplary character and model citizenship in the youth of our community. The Kentucky House of Representatives is pleased to welcome the participants of this valued program to the Capitol in Frankfort to observe a day in the 1998 General Assembly. **Legislative Citation No. 91** was adopted without objection.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crall moved that his vote be changed from "nay" to "yea" on **HCR 113**. Agreed. Representative Crall moved that his vote be changed from "yea" to "nay" on **HB 804**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ballard moved that he be recorded as voting "yea" on **HB 805, HJR 89,** and **HJR 117**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Thomas moved that he be recorded as voting "nay" on **HB 804**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording votes. Agreed.. Representative Cave moved that he be recorded as voting "yea" on **HB 462, HB 696, HB 779** and **HCR 113**. Agreed. Representative Cave moved that he be recorded as voting "nay" on **HB 285, HB 882,** and **HJR 117**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that he be recorded as voting "yea" on **HB 595**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "yea" on **HCR 119**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative

Anderson moved that he be recorded as voting "nay" the motion that **HB 561** be laid on the table. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Baugh moved that he be recorded as voting "yea" on **HB 864**. Agreed. Representative Baugh moved that his vote be changed from "yea" to "nay" on **HB 882**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Collins moved that his vote be changed from "yea" to "nay" on **HB 319** and **HB 882**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Palumbo moved that she be recorded as voting "yea" on **HB 462** and **HJR 117**. Agreed.

Representative Adkins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Adkins moved that his vote be changed from "yea" to "nay" on **HB 566**. Agreed.

Representative Lovell moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lovell moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed. Representative P. Clark moved that he be recorded as voting "yea" on **HB 706**. Agreed. Representative P. Clark moved that he be recorded as voting "nay" on **HB 738**. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **HB 532** and **HB 784**. Agreed.

Representative Miller moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Miller moved that he be recorded as voting "yea" on **HB 646**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Horlander moved that he be recorded as voting "yea" on **HB 223, HB 771,** and **HB 700**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cox moved that his vote be changed from "yea" to "nay" on **HB 547**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that he be recorded as voting "yea" on **HB 297**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 508** and **HB 771**. Agreed. Representative Ratliff moved that he be recorded as voting "nay" on **HB 904**. Agreed. Representative Ratliff moved that he be recorded as voting "yea" on **HB 864**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Simpson moved that he be recorded as voting "yea" on **HB 782**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 223**, Representative Crenshaw; **HB 532**, Representatives Yonts, Hoffman; **HB 533**, Representative Wayne; **HB 648**, Representatives Miller, Haydon, Weaver.

Announcements

The following meetings were announced:

Elections and Constitutional Amendments, Room 14, 10:00 a.m.; Minority Caucus, upon adjournment, March 18, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 18, 1998.

On the roll call the vote was **Yeas 76**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Cave, L. Clark, J. Clarke, Coleman, Colter, Cox, Crimm, Damron, DeWeese, Gee, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts. **Nays 8**--Allen, Brandstetter, Crall, Heleringer, Maricle, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 18, 1998

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gerald Johns, Providence Christian Church, Jessamine County.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives D. Graham, Hatcher, and Miller.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 17, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 226, SB 279, SB 341, SB 360, SB 364, SB 399, SCR 126, SCR 131, HB 17, HB 100, HB 145, HB 190, HB 205, HB 233, HB 237, HB 258, HB 346, HB 350, HB 351, HB 354, HB 355, HB 358, HB 362, HB 394, HB 451, HB 452, HB 505, HB 514, HB 516, HB 531, HB 645, HCR 8, HCR 12, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 29, HCR 30, HCR 41, HJR 63,** and **HJR 72**. Message received on **HB 2**: The Senate has passed **HB 2** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 392**

Judiciary: **SB 282**

Labor and Industry: **HR 134**

Transportation: **HR 136**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 135**

Report of Committees

The Committee on Rules reported that **SB 18, SB 28, SB 42, SB 59, SB 68, SB 75, SB 76, SB 211, SB 253,** and **SJR 76** have been posted for passage in the Orders of the Day for March 19, 1998.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolution has been posted for Committee consideration:

Labor and Industry: **HR 134**

Report of Committees (Continued)

The Committee on Education reported **SB 133, SB 147, SB 160, SB 163,** with Committee Amendments attached thereto, **SB 186, SB 230, SB 242, SB 257,** with Committee Amendment attached thereto, **SB 277, SB 295, SB 309,** with Committee Substitute attached thereto, and **SB 332** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 133, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.730 TO 161.810 IS CREATED TO READ AS FOLLOWS:

(1) In cases where a decision or judgment was tendered in an administrative or judicial proceeding before the effective date of this Act, in an investigation of allegations that a teacher, administrator, or other school employee acted improperly relating to the statewide assessment program required by KRS 158.6453, all references relating to the investigation, findings, and disciplinary actions shall be expunged from the individual's personnel file by the local school district, and the Kentucky Department of Education and the Education Professional Standards Board shall expunge any references to the investigation, and findings in all agency files. This shall apply to all affected persons found not guilty of the allegations.

(2) After July 15, 1998, allegations that a teacher, administrator, or other school employee has acted improperly relating to the statewide assessment program required by KRS 158.6453 shall be investigated. If the individual is found not guilty of the allegations, all references to the charges shall be immediately expunged from the individual's personnel file in the local school district, and the Kentucky Department of Education and the Education Professional Standards Board shall expunge all references to the investigation from all agency files.

Section 2. KRS 161.120 is amended to read as follows:

(1) (a) ***Except as described in Section 1 of this Act,*** any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees may be revoked by the Education Professional Standards Board for immorality, misconduct in office, incompetency, violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, willful neglect of duty, conviction of a misdemeanor offense under KRS Chapter 510 involving a student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or being found by the Education Professional Standards Board to have had sexual contact as defined in KRS 510.010(7) with a student, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification.

(b) The board may revoke an individual's certificate if the certificate was revoked or voluntarily surrendered in another state on the same or similar grounds provided in this subsection.

(2) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, Social Security number, position name, and position code of any certified school employee in his district whose contract is terminated or not renewed, for cause; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who is otherwise known to have engaged in any actions or conduct as might reasonably be expected to warrant consideration for certificate revocation. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, which are based on immorality, misconduct in office, incompetency, violation of school law or administrative regulation promulgated by the Kentucky Board of Education, willful neglect of duty, or falsification of certification credentials, and shall forward copies of all relevant documents and records in his possession.

(c) The Education Professional Standards Board may consider reports and information received from other sources. The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources and shall have the right to file a written rebuttal which shall be attached to the district superintendent's report.

(3) (a) Upon taking action to initiate proceedings to revoke a certificate, the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.

(b) The hearing may be public or private at the discretion of the certified employee.

(c) The hearing shall be conducted by the full board or a person appointed as hearing officer by the board.

(4) If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student which are needed as a result of the sexual contact.

(5) Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can

demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation.

(6) An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

SB 147, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of ***eleven (11)***[~~seven (7)~~] members, ***eight (8)***[~~four (4)~~] of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the ***eight (8)***[~~four (4)~~] directors from ***nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005***[~~the general public~~] to take office and to exercise all powers thereof immediately. ***The***[~~Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding~~] terms ***shall be staggered and*** shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director ***from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005*** who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 2. The General Assembly confirms Executive Orders 96-917 and 96-1138, relating to the increase in membership of the Kentucky Higher Education Student Loan Corporation, to the extent they are not otherwise confirmed by this Act.

SB 160, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the~~[Office of the Secretary for]~~ Education***, Arts,*** and Humanities ***Cabinet as an independent administrative body***~~[for administrative purposes]~~.

(8) The council shall be headed by an executive director appointed by the Secretary of the Education, Arts, and Humanities Cabinet upon recommendation of the council.

Section 2. The General Assembly hereby confirms Executive Order 96-920, dated July 15, 1996, to the extent it is not otherwise confirmed or superseded by this Act.

SB 163, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 96-919, dated July 15, 1996, which creates, within the Kentucky Higher Education Assistance Authority, the Division of Student Services, the Division of Information Resources and Technology, and the Division of Legal Services. The Division of Student Services shall be responsible for administration of the state funded student aid program, the Kentucky Educational Savings Plan Trust, outreach, development and dissemination of student financial aid and planning information, personnel, records and facility management. The Division of Information Resources and Technology shall be responsible for managing the Authority's information resources and technology. The Division of Legal Services shall be responsible for all legal matters and activities of the Authority. The name of the Division of Program Administration is changed to the Division of Loan Program Administration, and the name of the Division of Fiscal Affairs is changed to the Division of Financial Affairs.

The Committee Amendment No. 1 to **SB 163** is as follows:

On page 1, line 1, after "Section 1." by inserting the following:

"KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

  (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

  (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

  (c) Members of boards and commissions;

  (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(z) Employees of the Kentucky Peace Corps; [~~and~~]

(aa) Employees of the Council on Postsecondary Education***; and***

(bb) Employees of the Kentucky Higher Education Assistance Authority under Section 2 of this Act, which shall have sole authority over the exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon

termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 2. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the president of the Council on Postsecondary Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) ***Subject only to the availability of funds from any source,*** appoint such officers and employees as necessary***,*** ***prescribe their duties,*** and [~~may~~] fix their compensation ***without limitation of the provisions of KRS Chapter 18A and KRS 64.640, except employees hired prior to the effective date of this Act who do not elect in writing to be excluded shall remain subject to KRS Chapter 18A and KRS 64.640, provided that compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480***[~~, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents~~]; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 3. KRS 164.764 is amended to read as follows:

(1) All moneys and property received by the authority for purposes prescribed in KRS 164.740 to 164.764 are hereby ***continuously*** appropriated to the authority for use as prescribed herein. State moneys appropriated that are not spent at the end of the fiscal year shall not lapse.

(2) Except as provided KRS Chapter 7A, KRS 45.550 to 45.640, KRS 45.750 to 45.810, and KRS Chapter 164, the authority shall have sole authority and discretion, subject only to the Federal Act and administrative regulations

promulgated by the Secretary, over the receipt, control and expenditure of funds and the acquisition, control and disposal of property by the authority related to administration of the insured student loan program in accordance with the Federal Act and shall be exempt from any generally applicable provisions of state law pertaining to the deposit, investment, appropriation or allotment, and expenditure or disposal of those funds or property. The authority shall establish and assign in trust to a corporate trustee a special fund that shall be a revolving trust and agency account and shall deposit to that account funds received by the authority in accordance with this subsection. The authority shall annually file with the Legislative Research Commission an operating budget of funds described in this subsection. Personal service contracts related to administration of the insured student loan program shall be filed with the Personal Service Contract Review Subcommittee of the Legislative Research Commission for informational purposes.

(3) Except as provided in subsection (2) of this section, expenditures by the authority shall be subject to appropriation by the General Assembly.

Section 4. KRS 164.760 is amended to read as follows:

The authority shall be subject to the supervision and examination of the Department of Financial Institutions (or any successor), but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination. The authority shall file an annual audited financial report with the Governor ***and with the Legislative Research Commission*** within ninety (90) days after the close of the fiscal year. The annual audit shall be made by an independent certified public accountant. The annual audited financial report shall include but may not be limited to the financial condition of the authority as of the end of the fiscal year and the revenues and expenditures for the fiscal year. The fiscal year shall be from July 1 through June 30.

Section 5.".

The Committee Amendment No. 2 to **SB 163** is as follows:

On page 1, line 1 after "Section 1." by inserting the following:

" KRS 164A.080 is amended to read as follows:

(1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding ***nine hundred fifty million dollars ($950,000,000)***[~~five hundred fifty three million dollars ($553,000,000)~~] in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.

(3) (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of

KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.

(b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

Section 2.".

The Committee Amendment No. 3 Title to **SB 163** is as follows:

By amending the title to read "AN ACT relating to higher education assistance."

SB 186, AN ACT relating to literacy programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Reading" means the process of comprehending the meaning of written text by depending on:

1. The ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;

2. The ability to use previously learned strategies for reading comprehension; and

3. The ability to think critically about the meaning, message, and aesthetic value of the text.

(b) "Reliable, replicable research" means objective, valid, scientific studies that:

1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;

2. Rely on measurements that meet established standards of reliability and validity;

3. Test competing theories, where multiple theories exist;

4. Are subjected to peer review before their results are published; and

5. Discover effective strategies for improving reading skills.

(2) The early reading incentive fund is created to improve the reading skills of students in the primary program. The Kentucky Board of Education shall use the fund to provide grants to schools to support teachers in the implementation of reliable, replicable research-based reading models that use a balance of instructional strategies, including phonics instruction, to address the diverse learning needs of those students reading at low levels.

(3) The state board shall establish by promulgation of an administrative regulation in accordance with provisions of KRS Chapter 13A an application process and the criteria for funding grants. The application shall include, but not be limited to, the following:

(a) Identification of the research-based model to be implemented;

(b) The method for identifying qualified students to be served;

(c) An implementation plan and timeline, including supporting professional development efforts;

(d) A plan for evaluation to assess the short-term and long-term success of the program;

(e) A budget; and

(f) Approval of the application by the school council if one exists, the principal, and the superintendent of schools.

(4) In order to qualify for funding, the school council, or if none exists, the superintendent of schools, shall allocate matching funds. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under Section 2 of this Act may be used as part of the school's match.

(5) The Department of Education shall make available to schools:

(a) Information concerning successful, research-based early reading models, including phonics instruction, from the Collaborative Center for Literacy Development created under Section 2 of this Act;

(b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and

(c) A list of professional development providers offering teacher training related to phonics instruction.

(6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds and a summary of the program's evaluation conducted by the Collaborative Center for Literacy Development under Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers implementing selected reliable, replicable research-based reading models; and

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under Section 1 of this Act.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission.

(3) With the advice of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location and monitor the establishment of the center.

Section 3. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. ***A school district that has a school operating a model early reading program under Section 1 of this Act may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.***

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section. However, for the school years 1994-95 and 1995-96, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:

(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and

(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.

SB 230, AN ACT relating to school technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall promulgate administrative regulations to prevent sexually explicit material from being transmitted via any video or computer system, software or hardware product, or Internet service managed or provided to local schools or school districts.

(2) Each local school district and school shall utilize the latest available filtering technology to ensure that sexually explicit material is not made available to students.

(3) The Kentucky Department of Education shall make available to school districts and schools upon request and without cost, state-of-the-art software products that enable local districts and schools to prevent access to sexually explicit material. The department shall also notify all school districts and schools of the availability of the software. Any product provided or obtained by a district or school shall meet the requirements of subsection (2).

(4) Each local school district shall establish a policy regarding student Internet access that shall include, but not be limited to, parental consent for student Internet use, teacher supervision of student computer use, and auditing procedures to determine whether education technology is being used for the purpose of accessing sexually explicit or other objectionable material.

SB 242, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) All records and references relating to an allegation of a criminal offense committed by a school employee that did not lead to formal charges, and all records relating to a criminal proceeding in which a school employee was found

not guilty or the charges were dismissed shall be removed from the school employee's personnel file by the superintendent or the superintendent's designee in the local school district.

(2) The provisions of subsection (1) of this section shall not preclude a school district from separately investigating, taking action upon, and creating and maintaining records on the same or a similar fact situation upon which the allegations of a criminal offense was based.

SB 257, AN ACT relating to teacher salary deductions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.158 is amended to read as follows:

(1) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(5), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. ***Any deductions shall be remitted to the appropriate organization or association within twenty-one (21) days following the deduction.*** With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

The Committee Amendment No. 1 to **SB 257** is as follows:

On page 1, line 22, by deleting "***twenty-one (21)***" and by inserting in lieu thereof: "***thirty (30)***".

SB 277, AN ACT relating to recycling in school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Each local board of education shall adopt a plan and procedures for recycling white paper and cardboard in all board-owned and operated facilities. The board may delegate to each school or school council the responsibility for designing its own procedures; however, the superintendent or the superintendent's designee shall periodically review the operating procedures to assure that recycling is being carried out.

SB 295, AN ACT relating to the University of Kentucky board of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.131 is amended to read as follows:

(1) (a) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, ***one (1) member of the University of Kentucky nonteaching personnel,*** and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(4) ***The nonteaching personnel member shall be any full-time staff member, excluding the president, vice-presidents, academic deans, and academic department chairpersons. The staff member shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. The staff member shall be elected by secret ballot by the nonteaching employees. The staff member shall serve a term of three (3) years and until a successor is elected and qualified. The staff member shall be eligible for reelection, but a staff member who ceases being an employee of the university shall not be eligible to continue to serve as a member of the board. Elections to fill vacancies shall be for the unexpired term and shall be held in the same manner as provided for the original election.***

(5) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(6)[~~(5)~~] The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(7)[~~(6)~~] No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the ***two (2)***[~~three (3)~~] faction members***, and the one (1) nonteaching personnel member***.

(8)[~~(7)~~] New appointees of the board shall not serve more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

SB 309, AN ACT relating to school facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

(1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;

(2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;

(3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the facility plan certified to the School Facilities Construction Commission prior to the appropriation of funds, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;

(4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified.

(5) The commission shall ***promulgate administrative***[~~establish~~] regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year; and

(6) ***Except as provided in subsection (7) of this section,*** all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section.

(7) The commission shall promulgate an administrative regulation to provide that all savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

The House Committee Substitute to **SB 309** is as follows:

SB 309, AN ACT relating to school facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

(1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;

(2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;

(3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the facility plan certified to the School Facilities Construction Commission prior to the appropriation of funds, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may

be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;

(4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified.

(5) The commission shall ***promulgate administrative***~~[establish]~~ regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year; and

(6) *Except as provided in subsection (7) of this section,* all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section.

(7) Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

SB 332, AN ACT relating to educational diversity in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly, mindful that students comprise a culturally diverse statewide student body, finds that it is critical to draw upon the breadth and depth of the rich human resources students bring to the Commonwealth. To maximize these resources so that citizens will be prepared for the challenges of the twenty-first century, the General Assembly directs that educators provide a school environment that:

(1) Promotes and respects the dignity and worth of all students;

(2) Promotes high expectations for all students;

(3) Offers effective instruction appropriate for each student;

(4) Has certified and classified personnel who reflect the diversity of the school and society in general;

(5) Achieves substantial and meaningful parental involvement; and

(6) Implements policies and practices that demonstrate an appreciation of the benefit derived by all students when exposed to the attributes of a culturally diverse society.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) By September 1, 1998, as a component of the Kentucky Consolidated Planning process, the Department of Education shall promulgate administrative regulations to include a data gathering and analysis instrument to be used by each school district and school to measure and analyze its compliance with the General Assembly's findings under Section 1 of this Act. The instrument shall include, but not be limited to, an analysis of:

(a) The minority groups represented in the student body as defined in Section 4 of this Act;

(b) The grades, test scores, dropout rates, retention rates, and extracurricular participation patterns of the minority groups represented in the student body;

(c) The minority composition of the school staff; and

(d) The efforts to address minority diversity in the school's curriculum, extracurricular activities, and outreach to the community.

The department shall design the instrument to make use of other data included in the consolidated planning process and shall not duplicate data requests unnecessarily. Schools and school districts that do not participate in the consolidated planning process shall meet the requirements of the administrative regulation promulgated under this subsection.

(2) By January 1, 1999, each district and each school shall gather data and analyze the level of compliance with the

General Assembly's findings under Section 1 of this Act and shall create an action plan as a component of the consolidated planning process based on the data and analysis to achieve the General Assembly's standards. The action plan shall have substantive activities and aggressive timelines for improving the district's and school's education environment. The Department of Education shall monitor the implementation of the action plan and evaluate the progress toward meeting the goals of the plan.

(3) Progress toward achieving the plan shall be reported annually as part of the district's or school's annual report card under Section 5 of this Act, and shall be submitted to the Department of Education. If the report is not submitted at the designated time, the department shall notify the Kentucky Board of Education, the Office of Education Accountability, and each member of the district's local board of education. The Department of Education shall compile an annual statewide report that shall be submitted to the Governor, the Interim Joint Committee on Education, and the Office of Education Accountability by November 1.

Section 3. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the chief state school officer and approved by the Kentucky Board of Education, prepare and submit to the Kentucky Board of Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, nonclassroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials;

(h) Expenditure and accounting for school funds, including all special funds;~~[and]~~

(i) Policies dealing with school-based decision making***; and***

(j) Policies dealing with the school district's analysis and action plan required under Section 2 of this Act.

(3) The local board of education may adopt a policy requiring that each school council, or if none exists, the principal, make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board.

(4) It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 and shall be public records.

Section 4. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those

developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;[~~ and~~]
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal***; and***
10. ***Procedures for implementing the action plan developed by the council under Section 2 of this Act***.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council;[~~ and~~]

(i) A process for appealing a decision made by a school council***; and***

(j) Procedures to evaluate the principal's administration of policies established by the council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of

school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 5. KRS 158.6453 is amended to read as follows:

(1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Direct the development of the interim and full-scale assessment program; and

(b) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.

(4) ***The Kentucky Board of Education shall promulgate an administrative regulation establishing the components of a school report card to clearly communicate with parents and the public about school performance. The school report***

card shall be sent to the parents of the students of the districts and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include, but not be limited to, the following components:

(a) Student academic achievement including the results from each of the assessments administered under this section;

(b) Nonacademic achievement including the school's attendance, retention, dropout rates, student transition to adult life, and progress toward implementing the action plan required under Section 2 of this Act; and

(c) School climate including measures of parental involvement and school safety~~[By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in Kentucky Board of Education administrative regulations]~~.

The Committee on Tourism Development and Energy reported **SB 123** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 123, AN ACT relating to the creation of the Transportation and Tourism Interagency Committee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

The Transportation and Tourism Interagency Committee is established to foster close collaboration between the Tourism Development Cabinet and the Transportation Cabinet on policies that affect the tourism industry and to place strong emphasis on the coordination of mutual interests such as highway signage, scenic byways, highway safety, and concern for the Commonwealth's beauty and heritage.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation and Tourism Interagency Committee shall be composed of thirteen (13) members or their official appointed designees, as follows:

(a) Six (6) members appointed by the secretary of the Tourism Cabinet;

(b) Six (6) members appointed by the secretary of the Transportation Cabinet; and

(c) One (1) member appointed by the executive director of the Kentucky Heritage Council.

(2) Committee members shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as committee members.

(3) The committee shall elect its chair and vice chair from representatives of the Tourism Development and Transportation Cabinets for a term of one (1) year. The vice chair shall succeed the chair. The chair shall alternately be a representative of the Tourism Development and Transportation Cabinets.

(4) The committee shall meet upon the call of the chair and upon the request of the secretary of the Tourism Development Cabinet or the secretary of the Transportation Cabinet.

(5) A committee member may appoint a proxy for an individual meeting, delegating to the proxy the privilege of voting on any issue. The proxy appointment shall be in writing.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;

(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;

(3) Advise the Transportation Cabinet on the scenic byways and highways program;

(4) Review and make recommendations on requests for highway signage from tourism-related entities;

(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;

(6) Monitor developments across the United States relating to billboards and official signs;

(7) Report to the secretary of the Transportation Cabinet and to the secretary of the Tourism Development Cabinet on

issues of mutual interest to the cabinets;

(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Tourism Development Cabinet; and

(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Tourism Development Cabinet, the secretary of the Education, Arts, and Humanities Cabinet, and the secretary of the Executive Cabinet.

The Committee on Elections and Constitutional Amendments reported **SB 326,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 326, AN ACT relating to county judges/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. ***The Governor shall appoint a person to fill a vacancy in the office of county judge/executive not later than ten (10) days after the date on which the vacancy occurs. If a vacancy occurs in the office of county judge/executive, the remaining members of fiscal court shall elect one (1) of their members to serve as temporary county judge/executive until the Governor fills the vacancy in the office, notwithstanding the provisions of subsection (2) of KRS 61.080 to the contrary.***

(2) The salary of the county judge/executive shall be set by the fiscal court.

(3) Except in urban-county governments, the minimum annual compensation paid to the county judge/executive shall be the greater of a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, or not less than the annual compensation of the sheriff or county clerk or jailer in the county, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one (1) official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing moneys.

(4) In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

The House Committee Substitute to **SB 326** is as follows:

SB 326, AN ACT relating to county judges/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. ***The Governor shall appoint a person to fill a vacancy in the office of county judge/executive not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of county judge/executive, the remaining members of fiscal court shall elect one (1) of their members to serve as temporary county judge/executive until the Governor fills the vacancy in the office, notwithstanding the provisions of subsection (2) of KRS 61.080 to the contrary.***

(2) The salary of the county judge/executive shall be set by the fiscal court.

(3) Except in urban-county governments, the minimum annual compensation paid to the county judge/executive shall be the greater of a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, or not less than the annual compensation of the sheriff or county clerk or jailer in the county, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one (1) official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing moneys.

(4) In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during

calendar year 1976.

The Committee on Counties and Special Districts reported **SB 288**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 288, AN ACT relating to length of service awards programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the Legislative Research Commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city or municipal agency with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621, or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal, and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of the expenses in their recommendations for pension system funding, and local governments shall add payments for the expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency or urban-county government may, pursuant to KRS 67A.340, 79.080, 90.410, or KRS Chapter 96 as applicable, provide for the retirement security of its employees through the creation of a money purchase or defined contribution plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. City employee deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employee entry into the County Employees Retirement System, as required by KRS 78.530, 79.080, 90.410, and 96.180.

(6) No city or county, except an urban-county, or special district, nor any agency or instrumentality of a city or county or special district shall create or maintain for its officers or employees a defined benefit retirement system, which by its nature can have an unfunded liability. The provisions of this subsection shall not preclude employer contributions for city managers or other appointed local government executives who participate, pursuant to KRS 78.540, in a retirement system which operates in more than one (1) state, nor the continuation of a local government defined benefit retirement system which has been closed to new members but which must fulfill its obligations to current active members, retirees, and beneficiaries. ***Notwithstanding any provision to the contrary, the provisions of this subsection shall not apply to length of service awards programs established for the benefit of volunteer firefighters and volunteer life squad and volunteer rescue personnel.***

(7) Notwithstanding any provision to the contrary, any city or county may establish awards programs that recognize the length of service to the community by volunteer firefighters, volunteer life squads, and volunteer rescue personnel.

The Committee Amendment No. 1 to **SB 288** is as follows:

On page 3, after line 11, add the following language:

"Section 2. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. ***Vehicles used by coroners in the performance of their official duties may be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle.*** The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Human Resources on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 3. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad, or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating, or oscillating lights.

(4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(5) All Department of Corrections vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. The Department of Corrections vehicles shall not be equipped with or use a siren, whistle, or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(6) ***Vehicles used by coroners in the performance of their official duties may be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.***

(7) Red flashing lights may be used by school buses.

(8)[~~(7)~~] No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.".

The Committee Amendment No. 2 Title to **SB 288** is as follows:

Change title to read, "AN ACT relating to emergency services personnel.".

The Committee on Appropriations and Revenue reported **SB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 205, AN ACT relating to child custody.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.270 is amended to read as follows:

(1) ***(a) As used in this chapter, and Section 6 of this Act, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Social Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.***

(b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and Sections 2, 3, 4, 5, and 6 of this Act.

(2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent ***and to any de facto custodian***. The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents***, and any de facto custodian,*** as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community;

(e) The mental and physical health of all individuals involved;[~~ and~~]

(f) Information, records, and evidence of domestic violence as defined in KRS 403.720***;***[~~.~~]

(g) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;

(h) The intent of the parent or parents in placing the child with a de facto custodian; and

(i) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school.

(3)[~~(2)~~] The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4)[~~(3)~~] The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(5)[~~(4)~~] The court may grant joint custody to the child's parents***, or to the child's parents and a de facto custodian,*** if it is in the best interest of the child.

(6) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Section 2. KRS 403.280 is amended to read as follows:

(1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

(2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.

(3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under KRS 403.420(1)(a) or (b) is dismissed, any temporary custody order is vacated.

(4) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Section 3. KRS 403.340 is amended to read as follows:

(1) No motion to modify a custody decree shall be made earlier than two (2) years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe ***that:***

(a) The child's present environment may endanger seriously his physical, mental, moral, or emotional health***; or***

(b) The custodian appointed under the prior decree has placed the child with a de facto custodian.

(2) If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the custodian appointed pursuant to the prior decree unless:

(a) The custodian agrees to the modification;

(b) The child has been integrated into the family of the petitioner with consent of the custodian; or

(c) The child's present environment endangers seriously his physical, mental, moral, or emotional health, and the harm likely to be caused by a change of environment is outweighed by its advantages to him.***; or***

(d) The custodian has placed the child with a de facto custodian.

(3) In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including, but not limited to:

(a) The interaction and interrelationship of the child with his parent or parents, ***his de facto custodian,*** his siblings, and any other person who may significantly affect the child's best interests;

(b) The mental and physical health of all individuals involved;

(c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;

(d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Section 4. KRS 403.350 is amended to read as follows:

A party seeking a temporary custody order or modification of a custody decree shall submit together with his moving papers an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceeding, who may file opposing affidavits. ***If a court determines that a child is in the custody of a de facto custodian, the court shall make the de facto custodian a party to the proceeding.*** The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

Section 5. KRS 403.420 is amended to read as follows:

(1) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(a) This state is the home state of the child at the time of commencement of the proceeding, or had been the child's home state within six (6) months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(b) It is in the best interest of the child that a court of this state assume jurisdiction because the child and his parents, or the child and at least one (1) contestant, have a significant connection with this state, and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(c) The child is physically present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(d) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b), or (c), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

(2) Except under paragraphs (c) and (d) of subsection (1) of this section, physical presence in this state of the child, or of the

child and one (1) of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

(4) A child custody proceeding is commenced in the Circuit Court:

(a) By a parent, by filing a petition:

1. For dissolution or legal separation; or

2. For custody of the child in the county in which he is permanently resident or found; or

(b) By a person other than a parent, by filing a petition for custody of the child in the county in which he is permanently resident or found, but only if he is not in the physical custody of one (1) of his parents*; or*

(c) By a de facto custodian of the child, by filing a petition for custody of the child in the county in which the child is permanently resident or found.

Section 6. KRS 405.020 is amended to read as follows:

(1) The father and mother shall have the joint custody, nurture, and education of their children who are under the age of eighteen (18). If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture, and education of the children who are under the age of eighteen (18). The father shall be primarily liable for the nurture and education of his children who are under the age of eighteen (18) and for any unmarried child over the age of eighteen (18) when the child is a full-time high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years.

(2) The father and mother shall have the joint custody, care, and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care, and support of such children.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, a person claiming to be a de facto custodian, as defined in Section 1 of this Act, may petition a court for legal custody of a child. The court shall grant legal custody to the person if the court determines that the person meets the definition of de facto custodian and that the best interests of the child will be served by awarding custody to the de facto custodian.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, if either parent dies and at the time of death a child is in the custody of a de facto custodian, as defined in Section 1 of this Act, the court shall award custody to the de facto custodian if the court determines that the best interests of the child will be served by that award of custody.

The Committee on Licensing and Occupations reported **HB 878**, with Committee Substitute attached thereto, **SB 34**, **SB 261**, **SB 355**, and **SB 380**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 878, AN ACT relating to private investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) A person or firm shall be considered to be engaged in the private investigating business if doing work for a fee in any of the following:

(a) Crimes or wrongs committed against the United States or against the State of Kentucky or any political subdivision thereof;

(b) The identity, habits, conduct, movements, whereabouts, association, transactions, reputation, credibility, or character of a person;

(c) The location or recovery of lost or stolen property;

(d) The causes, origin, or responsibility of fire, accidents, or injuries to real or personal property;

(e) The truth of falsity of any statement or representation;

(f) Securing evidence to be used for authorized investigation committees or boards of award or arbitration, including legislative committees, or in the trial of civil or criminal cases;

(g) The whereabouts of any missing or kidnapped person;

(h) The affiliation, connection, or relationship of any person with any corporation or other business entity, union, organization, society, or association, or with any official, member, or representative thereof;

(i) Any person or persons seeking employment in the place of any employee or employees who have quit work by

reasons of any strike; or

(j) The conduct, honesty, efficiency, loyalty, or activities of employees, agents, contractors, or subcontractors.

(2) As used in this chapter, "board" means the private investigators regulatory board which is established by this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Excluded from the provisions of this chapter are:

(1) Law enforcement officers of the United States, of Kentucky, or of any political subdivision thereof, to the extent that they are engaged in the performance of their official duties;

(2) Insurance adjusters employed in the investigation and settlement of claims made against insurance companies or persons insured by insurance companies, if the adjusters are authorized to do business in the state of Kentucky and are complying with state laws regulating insurance adjusters;

(3) Attorneys, or their employees, while engaged in investigative matters incidental to services that constitute the practice of law; and

(4) Persons primarily engaged in the business of providing information for employment decisions by the company for which they are employed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) (a) The private investigators regulatory board is hereby established to administer the provisions of this chapter under the direction of the Secretary of State. The board shall consist of the Secretary of State or an employee designated by the Secretary of State, an attorney from the office of the Attorney General designated by the Attorney General, a municipal police officer of the rank of captain or above designated by the Governor, a county sheriff designated by the Governor, and three (3) active licensed private investigators designated by the Governor. The initial appointments of the three (3) private investigators may include persons who are not licensed but who meet the qualifications stated in subsection (2)(a) to (g) of Section 4 of this Act.

(b) Board members shall serve no more than three (3) consecutive years, except for the initial appointees, who shall serve terms according to paragraph (c) of this subsection, and none shall succeed themselves as board members, except for the Secretary of State, or the Secretary of State's appointee, and the attorney from the Attorney General's office. An appointee of the Secretary of State shall serve at the pleasure of the Secretary of State, and the attorney from the office of the Attorney General shall serve at the pleasure of the Attorney General.

(c) One (1) of the initial private investigator appointees shall be appointed for a one (1) year term, the second shall be appointed for a two (2) year term, and the third shall be appointed for a full three (3) year term. The initial municipal police officer appointee shall be appointed for a period of two (2) years, and the initial county sheriff appointee shall be appointed for a full three (3) year term. None of the initial appointees shall succeed himself or herself.

(2) The board shall have the authority to elect a president and a vice president, to adopt bylaws, and to promulgate administrative regulations to implement the provisions of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) No one shall be engaged as a private investigator unless that person is licensed by the board. Anyone who wishes to be licensed must submit an application which shall be approved by the board before a license can be issued. A qualifying agent may qualify a corporation and shall then be responsible for the conduct and competency of his or her employees.

(2) Any applicant for a license as a private investigator shall:

(a) Be at least eighteen (18) years old;

(b) Be a citizen of the United States or a legal alien who is authorized to be employed in the United States;

(c) Have never had a professional license revoked or denied in this or in any other state or territory;

(d) Have never been adjudicated incompetent for the purpose of holding such a license without having been restored to legal capacity for that purpose;

(e) Have at least four thousand (4,000) hours, over a period of two (2) calendar years, of education or training, or a combination of the two (2), of the following nature:

1. Course work relevant to private investigations at an accredited college or university;

2. Employment as a member of a United States government investigative agency, state or local police department, or sheriff's office;

3. Employment by a licensed private investigative or detective agency; or

4. Any other experience relevant to the private investigation business;

(f) Have never been convicted of a felony in this or any other state or territory, or by the federal government, and have never been convicted of any of the following:

1. Illegally using, possessing or carrying a pistol or other dangerous weapon;

2. Making or possessing burglar's instruments;

3. Buying or receiving stolen property;

4. Entering a building unlawfully;

5. Assisting an inmate's escape from prison;

6. Possessing or distributing illicit drugs; or

7. Any misdemeanor involving moral turpitude or for which dishonesty is a necessary element;

(g) Provide proof of general liability insurance coverage of not less than one hundred thousand dollars ($100,000) per person and three hundred thousand dollars ($300,000) per occurrence for bodily injury and one hundred thousand dollars ($100,000) for property damage. The insurance shall include coverage for:

1. False arrest, detention, or imprisonment; and

2. Wrongful entry or eviction or other invasion of the rights of private occupancy; and

(h) Pass an examination devised by the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Before an applicant may be considered for licensing, the applicant shall submit to the board:

(1) An application on a form prescribed by the board, which shall include:

(a) The full name and address of the applicant;

(b) The name under which the business will be operated; and

(c) If the applicant is a corporation:

1. The date and place of incorporation;

2. The names and residence addresses of each member, partner, and manager, if the applicant is a corporation;

3. Signature of the president of the corporation;

4. Verification of the secretary or treasurer of the corporation; and

5. Certificate of good standing of the corporation.

(2) Information on each individual or officer regarding:

(a) Arrest or conviction regarding any crimes done or threatened against the government of the United States or of any state or territory or political subdivision thereof; and

(b) Facts to confirm character and competency of the officer or officers, if required by the board.

(3) Permission to check criminal records.

(4) Full-face photograph and fingerprints of the applicant or, if corporation, of each officer.

(5) Five (5) character references for each individual or officer, if a corporation, who are not related by blood or marriage and who have known the officer for at least five (5) years.

(6) Examination fee of fifty dollars ($50) and a license fee of two hundred dollars ($200).

(7) Proof of insurance in the amounts required in subsection 2(g) of Section 4 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Each applicant for a private investigator's license shall pass an examination devised by the board, except that a qualifying agent may qualify a corporation and then shall be responsible for the conduct and competency of his or her employees. The board shall set the date, time, and place for the examination and shall notify all applicants by mail at least two (2) weeks prior to the date of the examination.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Each employee of a firm engaged in private investigation business, except clerical employees, shall be registered with the board no earlier than three (3) days after hire and no later than seven (7) days after hire. The registration shall include the following:

(a) An application form, devised by the board, which shall include:

1. One (1) complete set of fingerprints;

2. A full-face photograph; and

3. Permission for a criminal record check.

(b) A fee of ten dollars ($10) for each application.

(2) One (1) full set of fingerprints and one (1) full-face photograph, and a copy of the application, shall be kept in the employee's file at the central business location of the firm.

(3) The licensee shall be legally responsible for the good conduct and the competency of all employees.

(4) Upon acceptance of an employee's application, the board shall issue the employee a pocket card which shall contain the name of the business, a license number, a signature of the licensee, a signature of the employee, a photograph of the employee, and the right thumbprint of the employee. This card shall clearly state that the bearer of the card is registered as an employee of a licensed private investigation firm.

(5) Upon termination of the employment of any employee, the card shall immediately be surrendered to the licensee, and shall be mailed, or otherwise delivered, by the licensee to the board within five (5) days after the employee's termination, along with a termination form which shall be devised by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall determine the content and the form of the license. The license shall include the name of the business, the license number, the date the license was issued, the license expiration date, and any other information the board may deem as necessary. A copy of the license shall be posted in a conspicuous place in the principal place of business of the firm. The board shall also issue a pocket card to the licensee, and if corporation, the board shall issue a pocket card for each partner, director, officer, manager and employee. The pocket cards shall include the information listed in section 7 subsection (3).

(2) (a) A firm having branch offices shall be required to obtain a license for each office, with an application procedure the same as for its main location, except that the license fee shall be seventy-five dollars ($75) for each branch office. The branch license shall be posted conspicuously in the branch office.

(b) The licensee shall report the location of each of its branches to the local law enforcement officers in each county where the branches are located. The licensee shall notify the affected law enforcement officials of any change of location or the closure of any branch within forty-eight (48) of the change.

(3) (a) A private investigator's license shall not be assigned to any other person or firm.

(b) The license shall expire after two (2) years from the date it was issued, and shall be renewed at least thirty (30) days before its expiration date. A renewal application shall be submitted on a form prescribed by the board along with the renewal fee of one hundred seventy-five dollars ($175) for the licensee, and forty-five dollars ($45) for each branch office.

(4) The board may deny an application of, or refuse to license, any individual or a member of a firm who:

(a) Has made a false statement in connection with the applications for a license, for a license renewal, or for a license reinstatement;

(b) Has committed an action which, if committed by a licensee, would constitute grounds for suspension or revocation of the license;

(c) Has been convicted of felony or misdemeanor which would have direct bearing on the applicant's ability to practice competently; or

(d) Has, while unlicensed, committed, or aided or abetted the commission of, an act for which a license is required under this chapter.

(5) The board may suspend or revoke the license of any individual or firm who has:

(a) Violated any provision of this chapter;

(b) Violated any rule adopted by the board under the authority given to the board by this chapter;

(c) Been convicted of any act or crime which would constitute a denial of licensure under this chapter;

(d) Impersonated, or allowed any employee to impersonate, a law enforcement official or employee of the United States of America, any state or territory, or any political subdivision thereof;

(e) Committed, or allowed an employee to commit, any act while the license was expired which would constitute grounds for the suspension or revocation of the license or a denial of an application for a licensure;

(f) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement between the parties;

(g) Committed an assault, battery, or kidnapping, or used force or violence on any person without proper justification;

(h) Knowingly violated or advised, encouraged or assisted in the violation of, any court order or injunction in the course of business as a licensee;

(i) Advertised under a name other than that under which the license was issued; or

(j) Manufactured evidence.

(6) (a) In the event of the death of an individual licensee, an immediate member of the family shall be entitled to operate the business for a period of ninety (90) days following the date of death, if a written application is received by the board within thirty (30) days following the date of death. At the end of the ninety (90) day period the license shall be automatically canceled. If no application is received within the thirty (30) day period, the license shall be canceled at the end of that period.

(b) In case of the death or termination of the employment of a qualifying manager of a business, the licensee shall notify the board within thirty (30) days. The license shall then remain in force for a period of ninety (90) days, pending the qualification of another manager as provided by this chapter. After the end of the ninety (90) day period the license shall be automatically suspended unless the board is notified in writing about the qualifications of a new manager. If the licensee fails to notify the board within the thirty (30) day period, the license shall be automatically suspended and may be reinstated only upon the qualification of a manager as provided in this chapter and a payment of a reinstatement fee of one-half (1/2) of the renewal fee in effect on the date of the suspension. In the case of the death or disassociation of a qualifying partner or an officer of a firm, the licensee shall notify the board in writing within thirty (30) days of the death or disassociation. If this notification is given, the license shall remain in force for ninety (90) days, pending the qualification of a new partner or officer, and shall be automatically canceled at the end of the period if the individual was not qualified. If the licensee fails to notify the board within the thirty (30) day period, the license shall be automatically canceled.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No individual or a member of a firm shall:

(1) Engage in the business of private investigating, or present oneself as a licensed private investigator, unless licensed under the provisions of this chapter;

(2) Use any title, uniform, insignia, or identification card, or make any statement with the intent to give the impression that the investigator is connected with the federal or state government or with any other political subdivision thereof;

(3) Enter a private building or portion thereof, except premises commonly accessible to the public, without the permission of the owner or of the person in legal possession thereof;

(4) Divulge information acquired for a client without the direction of his or her employer or the client, to anyone but the client, except when this information is required by any law enforcement officer or district attorney in regard to a criminal offense;

(5) Make a false report to an employer or to a client;

(6) Knowingly accepting employment which includes obtaining information intended for illegal purposes;

(7) Directly solicit any injured party, spouse, or family members;

(8) Transfer a license to an unlicensed person or firm or subcontract with an unlicensed person or firm; or

(9) Knowingly violate any provision of this chapter or any regulations adopted by the board under this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Violation of the provisions of this chapter carries the following penalties:

(1) Revocation or suspension of license, depending on the findings of the board.

(a) Upon conviction of a first offense the person, or firm, may not be relicensed for a period of one (1) year.

(b) Upon conviction of a subsequent offense, the person or firm may not be licensed for a period of five (5) years.

(2) A fine of not less than one hundred dollars ($100) and not more than five thousand dollars ($5,000), imprisonment for one (1) year, or both, if:

(a) An unlicensed person is convicted of engaging in the private investigation business. The fine shall be assessed for each day the individual conducted business; or

(b) An unlicensed firm is convicted of engaging in the private investigation business. The fine shall be assessed for each day the firm conducted business, multiplied by the number of employees providing the service.

(3) Individuals damaged by the violation of the provisions of this chapter may bring an action for the recovery of damages, including punitive damages, reasonable attorney fees, and court costs.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Any person or firm accused of violating any of the provisions of this chapter shall have a fair hearing before the board. Hearing procedures shall as follows:

(1) If the board determines that an individual or a firm may be engaged in activity prohibited under this chapter, the board shall send a notice of hearing requiring the person or firm to show cause why the challenged activities are not a violation. The notice shall be in writing and shall include:

  (a) The date, time and place of the hearing;

  (b) The nature of the alleged violation; and

  (c) Permission for the affected person, or a representative, and the accused individual or firm, or a representative, to present evidence.

(2) The president of the board may compel by subpoena witnesses to appear and testify in relation with the investigation of the alleged violation and may compel by subpoena duces tecum the production of any documents, photographs, or videotapes pertaining to the investigation. If a person does not comply with the subpoena, the president of the board may apply to the appropriate court for an order compelling the person to comply with the subpoena or subpoena duces tecum or to be held in contempt of court.

(3) If after the hearing, the board determines a violation of the provisions of this chapter to have occurred, in addition to the fine and other penalties in Section 10 of this Act, the board may issue a cease and desist order against the individual or firm determined to have committed the violation. This order shall have the force of a court order.

(4) The board, the Attorney General, or the prosecuting attorney of the county where the violation occurred may file an action in the name of the state for an injunction.

It shall be the responsibility of the board to achieve consistency in the application of the penalties under this chapter.

The Committee Substitute to **HB 878** is as follows:

AN ACT relating to private investigators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 329A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Licensure for Private Investigators;

(2) "Company" means a firm, association, sole proprietorship, partnership, corporation, nonprofit organization, institution, or similar enterprise;

(3) "Investigating company" or "company licensee" means a company engaged in private investigating that is licensed under Sections 1 to 15 of this Act;

(4) "Private investigating" means the act of any individual or company engaging in the business of or accepting employment to obtain or furnish information with reference to:

  (a) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

  (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations, or character of any person;

  (c) The location, disposition, or recovery of lost or stolen property; or

  (d) The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; and

(5) "Private investigator" or "individual licensee" means a person who is engaged in private investigating and licensed in accordance with the provisions of Sections 1 to 15 of this Act; and

(6) "Qualifying agent" means a principal corporate officer, such as the chief executive officer, president, vice president, treasurer, secretary, comptroller, or any other responsible officer or executive employee, who is designated by the corporation to represent it in matters relating to Sections 1 to 15 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Effective January 1, 2000, except as otherwise provided in Section 13 of this Act, it is unlawful for any person or company to practice private investigating without a license from the board. All private investigators seeking licensure before that date who have been engaged in private investigating for five (5) years or more and who can document a minimum of two thousand (2,000) hours of private investigating work each year shall not have to pass the examination required under subsection (3)(h) of Section 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the "Kentucky Board of Licensure for Private Investigators."

(2) The board shall consist of seven (7) members appointed by the Governor.

(a) Members shall be appointed to reflect the following representation:

1. One (1) member shall be an attorney from the office of the Attorney General to be designated by the Attorney General;

2. One (1) member shall be a municipal police officer of the rank of captain or above, to be appointed by the Governor;

3. One (1) member shall be a county sheriff, to be appointed by the Governor;

4. Three (3) members shall each have been private investigators for at least five (5) years prior to the date of their appointment and shall be of recognized business standing, to be appointed by the Governor; and

5. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice of private investigating, to be appointed by the Governor.

(b) All members shall be residents of this state and possess good moral character.

(c) After the initial appointments to the board, all members shall serve a four (4) year term.

(d) Any vacancy occurring on the board shall be filled by the Governor for the unexpired term.

(e) No member may serve more than two (2) consecutive full terms.

(3) The three (3) board members who are private investigators and the member at large shall receive the sum of one hundred dollars ($100) per day for each day spent performing official duties as a board member. All members shall receive reimbursement for actual and necessary expenses incurred in the performance of their official duties.

(4) The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the members of the board.

(5) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(6) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

(7) Board members and agents and staff of the board shall be held free of any personal liability as a result of board actions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 15 of this Act and shall have the responsibility of evaluating the qualifications of applicants for licensure and the issuance of licenses.

(2) The board shall promulgate necessary and reasonable administrative regulations in accordance with KRS Chapter 13A to effectively carry out and enforce the provisions of Sections 1 to 15 of this Act, including regulations to establish authorized fees. Fees shall not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 15 of this Act.

(3) The board shall adopt and promulgate by administrative regulation an examination to be administered at least twice annually to license applicants. The examination shall be designed to measure knowledge and competence in private investigating.

(4) The board shall adopt and promulgate by administrative regulation a code of professional practice and conduct that shall be based upon generally recognized principles of professional ethical conduct and be binding upon all licensees.

(5) The board may:

(a) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(b) Employ any persons it deems necessary to carry on the work of the board, and define their duties, and fix their compensation;

(c) Develop or sponsor at least six (6) hours of continuing professional education annually;

(d) Renew licenses and require continuing professional education as a condition for renewal;

(e) Suspend or revoke licenses, impose supervisory or probationary conditions upon licensees, impose

administrative disciplinary fines, or issue written admonishments or reprimands, or any combination thereof;

(f) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 15 of this Act;

(g) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the board's functions;

(h) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one (1) particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B;

(i) Utilize mediation as a technique to resolve disciplinary matters; and

(j) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of private investigating by unlicensed persons or companies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 15 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The revolving fund may be used to pay for:

(a) The compensation and reimbursement of board members for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the board;

(c) Those operational expenses incurred in fulfilling the board's duties as described in Sections 1 to 15 of this Act and in administrative regulations; and

(d) The development or sponsorship of at least six (6) hours of continuation courses annually, to be conducted in various areas of the state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) An application for a private investigator license shall be filed with the board on the prescribed form.

(a) The application shall include the following information regarding the applicant:

1. Full name and address;

2. Date and place of birth;

3. All residences during the past five (5) years;

4. All employment or occupations engaged in during the past five (5) years;

5. Three (3) sets of classifiable fingerprints;

6. Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

7. Any other information as the board may reasonably require by administrative regulation.

(b) The application shall be subscribed and sworn to by the applicant.

(2) An application for an investigating company license shall be filed with the board on the prescribed form.

(a) The application shall include:

1. The information required in subsection (1)(a) of this section for:

a. The owner, if the company is a sole proprietorship;

b. Each partner, if the company is a partnership; or

c. The qualifying agent, if the company is a corporation;

2. The name under which the company intends to do business;

3. The address of the principal place of business and any branch offices of the company within this state; and

4. Other information as the board may reasonably require by administrative regulation.

(b) If the company is a corporation, the following information is also required:

1. The correct legal name of the corporation;

2. The state and date of incorporation;

3. The date the corporation qualified to do business in this state;

4. The address of the corporate headquarters, if located outside of this state;

5. The names of two (2) principal corporate officers other than the qualifying agent, their business addresses, residence addresses, and the office held by each in the corporation;

6. The identity and license number of all private investigators employed by or affiliated with the company; and

(c) The application shall be subscribed and sworn to by:

1. The owner, if the applicant is a sole proprietorship;

2. Each partner, if the applicant is a partnership; or

3. The qualifying agent, if the applicant is a corporation.

(3) Each applicant for an individual license or owner, partner, or qualifying agent for a company license must:

(a) Be at least twenty one (21) years of age;

(b) Be a citizen of the United States or a resident alien;

(c) Not have been convicted of a felony in this or any other state or territory or by the federal government within the previous twenty (20) years;

(d) Not have been convicted of a misdemeanor involving moral turpitude or for which dishonesty is a necessary element within the previous twenty (20) years.

(e) Not have been declared by any court of competent jurisdiction to be incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared him or her to be competent;

(f) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(g) Be of good moral character;

(h) Pass an examination to be administered at least twice annually by the board designed to measure knowledge and competence in the investigations field; and

(i) Submit proof of comprehensive general liability insurance coverage or other equivalent guaranty in the amount established by the board in administrative regulation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars ($100) and not more than five hundred dollars ($500), as established by the board by promulgation of administrative regulation, the board shall:

(a) Conduct an investigation to determine whether the statements made in the application are true; and

(b) Submit the application, including fingerprints to the Kentucky State Police for a state criminal history background check. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of P.L. 92-544.

(2) Following the investigation process, the board shall either deny or approve the application.

(a) If the application for a license is denied, the board:

1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and

2. May grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(b) If the application for a license is approved, the board shall issue:

1. A license to be posted conspicuously in the licensee's principal place of business; and

2. A wallet-sized laminated identification card to each individual licensee be carried while engaged in private investigating. Information on the card shall include its expiration date and the licensee's:

a. Name;

b. Photograph;

c. Physical characteristics; and

d. License number.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A license or renewal issued under Sections 1 to 15 of this Act shall be valid for one (1) year from the date of issuance. Each year, no later than May 1, the board shall send a renewal application form to the address on file for each licensee. The application shall indicate if the licensee is required to submit passport-sized photographs for a new identification card.

(2) All renewal applications shall be received by the board on or before June 30 each year.

(3) Each company license renewal shall include a notarized statement sworn to by the representative prescribed in subsection (2)(c) of Section 6 of this Act stating the identity and license number of each private investigator employed by or affiliated with the company.

(4) The fee for the timely renewal of a license shall be not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250), as established by the board and promulgated by administrative regulations.

(5) For individual licensees, the board shall issue either a new identification card or a renewal stamp or sticker to be affixed to the existing card, at its discretion.

(6) A grace period will be allowed until September 1, during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late fee as promulgated by administrative regulation of the board.

(7) All licenses not renewed by September 1 shall terminate based on the failure to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in this state.

(8) After September 1, former licensees with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. If the reinstatement application is made within five (5) years from the date of termination, applicants shall not be required to submit to any examination as a condition for reinstatement.

(9) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (8) of this section and the renewal fee as set forth in subsection (4) of this section.

(10) A former licensee who fails to reinstate a license within five (5) years after its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(11) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing professional education as prescribed by the board in administrative regulations.

SECTION 9. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) If the ownership of an investigating company changes, the new owner, if not already a licensee, shall not operate that company more than thirty (30) days after the date of the ownership change unless, within the thirty (30) day period, the new owner submits an application for a license.

  (a) If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the board.

  (b) For good cause, the board may extend for a reasonable time the period for submitting an application under subsection (1) of this section.

(2) If the qualifying agent of a company licensee ceases to perform his or her duties on a regular basis, the licensee shall notify the board by certified or registered mail within thirty (30) days and substitute a new qualifying agent within ninety (90) days. The board may, in its discretion, extend for a reasonable time the period of obtaining a substitute qualifying agent.

SECTION 10. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

No licensee shall:

(1) Knowingly make a material misrepresentation as to his or her ability to perform the investigation required by a potential client in order to obtain employment;

(2) Continue an investigation for a client when it becomes obvious to the licensee that a successful completion of an investigation is unlikely without first so advising the client and obtaining the client's approval for continuation of the investigation; or

(3) Reveal information obtained for a client during an investigation to another individual, except as required by law.

SECTION 11. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may investigate allegations of licensee wrongdoing upon complaint or upon its own volition. The board shall establish procedures for receiving and investigating complaints by administrative regulation.

(2) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing

pursuant to the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any combination of actions regarding any license under the provisions of Sections 1 to 15 of this Act.

(3) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the board's permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have that response placed in the board's permanent licensure file. The licensee may alternatively, within thirty (30) days of receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee or applicant has:

(a) Violated any provision of Sections 1 to 15 of this Act or any administrative regulation promulgated by the board;

(b) Knowingly and willfully made a material misstatement in connection with an application for a license or renewal;

(c) Been convicted of a crime as described in KRS 335B.010(4) or an offense that otherwise directly relates to the occupation of private investigating. A plea of "no contest" may be treated as a conviction for purposes of disciplinary action;

(d) Practiced fraud, deceit, or misrepresentation;

(e) Committed any act that would have been cause for refusal to issue the license had it existed and been known to the board at the time of issuance;

(f) Been incompetent or negligent in the practice of private investigating; or

(g) Violated the code of ethics adopted and promulgated by administrative regulation by the board.

(2) In addition to or in lieu of any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding two thousand dollars ($2,000).

(3) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(4) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee if the assurance effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.

(7) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 13. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 15 of this Act do not apply to:

(1) A public accountant, certified public accountant, or the agent of either, performing duties relating to public accountancy;

(2) A governmental officer or employee performing official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(4) An attorney at law, or an attorney's agent, performing duties relating to the practice of law;

(5) An insurance company, licensed insurance agent, or staff or independent adjuster performing investigative duties limited to matters directly pertaining to an insurance transaction; or

(6) A private business employee conducting investigations relating to the company entity by which he or she is employed.

SECTION 14. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

(1) A licensee shall notify the board in writing within thirty (30) days of:

(a) Any material change in the information previously furnished or required to be furnished to the board;

(b) Any occurrence that could reasonably be expected to affect the licensee's right to a license under Sections 1 to 15 of this Act, including but not limited to any criminal charges placed against any licensee by any person; and

(c) Any judgment received by any person for punitive damages against any licensee.

(2) An investigative company must notify the board in writing within thirty (30) days of any criminal charges filed against an investigator employed by or affiliated with the company.

SECTION 15. A NEW SECTION OF KRS CHAPTER 329A IS CREATED TO READ AS FOLLOWS:

Any person violating Section 2 of this Act shall be guilty of a Class A misdemeanor.

Section 16. The original members of the board created in Section 3 of this Act shall be appointed by July 15, 1998 as follows: one (1) member to a one (1) year term, two (2) members to a two (2) year term, two (2) members to a three (3) year term, and two (2) members to a four (4) year term. All members thereafter shall be appointed for a term of four (4) years.

SB 34, AN ACT relating to tampering with or rigging a pari-mutuel horse race.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.990 is amended to read as follows:

(1) Any person who violates KRS 230.070 or subsection (3) of KRS 230.080 shall be guilty of a Class D felony.

(2) Any person who violates KRS 230.090 shall be guilty of a Class A misdemeanor.

(3) Any person who violates KRS 230.680 shall be guilty of a Class A misdemeanor.

(4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be guilty of a Class A misdemeanor.

(5) Any person failing to appear before the commission at the time and place specified in the summons issued pursuant to KRS 230.260(7), or refusing to testify, shall be guilty of a Class B misdemeanor. False swearing on the part of any witness shall be deemed perjury and punished as such.

(6) (a) A person is guilty of tampering with or interfering with a horse race when, with the intent to influence the outcome of a horse race, he uses any device, material, or substance not approved by the Kentucky Racing Commission on or in any participant involved in or eligible to compete in a horse race to be viewed by the public.

(b) Any person who, while outside the Commonwealth and with intent to influence the outcome of a horse race contested within the Commonwealth, tampers with or interferes with any equine participant involved in or eligible to compete in a horse race in the Commonwealth is guilty of tampering with or interfering with a horse race.

(c) Tampering with or interfering with a horse race is a Class C felony.

Section 2. KRS 518.060 is amended to read as follows:

(1) A person is guilty of tampering with or rigging a sports contest when, with intent to influence the outcome of a sports contest, he ***or she***:

(a) Tampers with any sports participant or sports official or with any animal ***other than a horse***, equipment, or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules governing the sports contest in question; or

(b) Substitutes a sports participant, animal, other than a horse, equipment or other thing involved in the conduct or operation of a sports contest for the genuine person, animal, or thing.

(2) Tampering with or rigging a sports contest is a Class A misdemeanor.

SB 261, AN ACT relating to auctioneers and auction house operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 330.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Apprentice auctioneer" means any person who is employed ***or supervised***, directly or indirectly, by an auctioneer to deal or engage in any activity in subsection (2);

(2) "Auctioneer" ***or "principal auctioneer"*** means any person who offers, negotiates, or attempts to negotiate a listing contract, sale, purchase, or exchange of goods, chattels, merchandise, real or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction, or who sells the same at auction ***and***

who is allowed to supervise one (1) or more apprentice auctioneers;

(3) "Board" means the Board of Auctioneers;

(4) "Goods" means any chattels, goods, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale;

(5) "Persons" includes individuals, associations, partnerships, and corporations, and the word "persons" shall also include the officers, directors, and employees of a corporation;

(6) "Auction house" means any commercial establishment at which goods are regularly or customarily offered for sale or sold at public auction, or at which goods are customarily or regularly deposited and accepted, on consignment or otherwise, for sale at public auction at a fixed location, except those establishments which limit goods sold to thoroughbred horses or any interests therein, including, but not limited to, shares and seasons, or tobacco and certified fixed-base livestock markets;

(7) "Auction house operator" means the individual principally or ultimately responsible for the operation of an auction house, or in whose principal interest the establishment is operated.

(8) "Livestock auctioneer" means any auctioneer ***whose***[~~limiting his~~] professional activities ***are limited*** to the sale of livestock at fixed based livestock yards operating under the control and guidance of the United States of America pursuant to the Federal Packers and Stockyards Act.

(9) "Tobacco auctioneer" means any auctioneer ***whose***[~~limiting his~~] professional activities ***are limited*** to the sale of tobacco at fixed based tobacco warehouses operating under the control and guidance of the United States of America through its Department of Agriculture.

Section 2. KRS 330.050 is amended to read as follows:

(1) There is hereby created a Board of Auctioneers. The Governor shall appoint a board consisting of five (5) members, all of whom immediately prior to the date of their appointment have been residents of the Commonwealth of Kentucky for five (5) years, and four (4) whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.

(2) At no time shall there be more than three (3) members of the same political faith on the board. Whenever there is a vacancy on the board, the Kentucky Auctioneer Association shall recommend to the Governor at least three (3) names for each auctioneer vacancy, and such appointment or appointments shall be made from the recommendations of the association.

(3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.

(4) Each member of the board shall receive the sum of ***twelve thousand dollars ($12,000) per year, payable twice monthly,***[~~one hundred dollars ($100) per day as full compensation for each day actually spent on the work of the board~~] and ***reimbursement for***[~~his~~] actual and necessary expenses incurred in the performance of ***official*** duties[~~ pertaining to his office~~].

(5) The board shall have full authority to employ, and discharge, any personnel, including counsel, as it may deem necessary to efficiently administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, provided that compensation shall be comparable to the salaries paid other state employees, if any, which the board may deem to be doing similar work. The board shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter. If any items deemed to be reasonably necessary by or which are required by the board are available through vendors under contract with the Commonwealth of Kentucky at less cost than if obtained otherwise, then the items shall be acquired pursuant to the contract. The board shall have full authority to obtain for its members, staff, and employees complete insurance coverage, including, but not limited to, liability and errors and omissions insurance, so long as such insurance concerns the business of the board.

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into the State Treasury through the Finance and Administration Cabinet and shall be credited to an agency fund account for the Board of Auctioneers under the provisions of KRS 45.253 and shall be withdrawn or expended as provided in that section, if such payment, credit, withdrawal, or expense provisions do not conflict with any provision of this chapter. The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines, penalties, and other income imposed under the provisions of this chapter and paid into the state treasury. The board shall be financially self-sustaining, and if funds permit it may underwrite, within its financial limitations, educational programs for the enlightenment and benefit of all licensees who have paid fees pursuant to this chapter.

(7) The board shall annually publish a list of the names and addresses of all auctioneers, apprentice auctioneers, livestock auctioneers, tobacco auctioneers, and auction house operators licensed by it pursuant to this chapter. This list shall also

contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative to the enforcement of the provisions of this chapter that the board may deem of interest to the public.

(8) The board may from time to time promulgate necessary administrative regulations.

Section 3. KRS 330.060 is amended to read as follows:

(1) Any licenses issued pursuant to this chapter shall be granted only to persons who are found to be of good repute, trustworthy, and competent to transact the business for which the license was granted in such a manner as to safeguard the interest of the public.

(2) The board is authorized to require information from every applicant to determine the applicant's honesty and truthfulness.

(3) In addition to proof of honesty, truthfulness, and good reputation, an examination, conducted by the board or its authorized representative shall be held four (4) times each year, and an examination fee of seventy-five dollars ($75) shall be collected from each applicant for apprentice auctioneer and an examination fee of one hundred dollars ($100) shall be collected from each applicant for auctioneer and from each applicant for livestock auctioneer, tobacco auctioneer, and auction house operator. Examination fees shall be nonrefundable and shall defray the expenses of processing the application and of conducting the examination. The examinations for auctioneer and apprentice auctioneer shall include questions on ethics, reading, writing, spelling, ***mathematics***[~~elementary arithmetic~~], elementary principles of land economics, and a general knowledge of the statutes of Kentucky relating to[~~ the bulk sales law,~~] deeds, mortgages, contracts of sale, agency, leases, auctions, brokerage, and the provisions of this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer. The examination for auction house operator license shall include those areas of knowledge which, in the discretion of the board, are appropriate to those seeking to operate auction houses. The examinations for livestock auctioneer and tobacco auctioneer shall include those areas of knowledge which, in the discretion of the board, are appropriate to those seeking a professional license to operate in those limited fields.

(4) However, no examination shall be required for the renewal of any present or future license, unless such license has been revoked, suspended, or is allowed to expire without renewal. In any of these cases, the board may, in its discretion, require the applicant to take and pass the written examination before a new license may be issued.

[~~(5) The provisions of subsection (3) of this section requiring applicants to pass a written examination to obtain a license shall not apply to an auctioneer or apprentice auctioneer furnishing satisfactory proof to the board that he actively engaged in the auction business for a period of at least one (1) year prior to June 14, 1962, and that he has been the principal auctioneer in at least five (5) auctions of either real or personal property during this period of time. Such an applicant shall file his application and proof with the board no later than October 1, 1962, and the application and proof shall be accompanied by a bond and license fee in accordance with the provisions of this chapter; provided, however, that a nonresident tobacco auctioneer may qualify by December 1, 1962.~~

~~(6) The provisions of subsection (3) of this section requiring applicants for auction house operator to pass a written examination shall not apply to an auction house operator furnishing satisfactory proof to the board that he was actively engaged as an auction house operator at a fixed location for a period of at least two (2) years prior to January 1, 1991, at which at least twenty (20) auction sales were conducted during that period. Such an applicant shall file his application and proof with the board no later than February 1, 1991.~~]

Section 4. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for any license issued by the board shall be at least eighteen (18) years of age ***and hold a high school diploma or equivalent***. In addition, but subject to the provisions of KRS 330.090, an applicant for an auctioneer's license shall possess a current Kentucky apprentice auctioneer's license and shall have served a bona fide apprenticeship for a period of two (2) years as an apprentice auctioneer in Kentucky, provided that any applicant for auctioneer's license whose apprentice license was granted prior to August 1, 1992, shall be required to serve an apprenticeship of but one (1) year. An applicant for an auctioneer's license who has previously held an auctioneer's license which has been revoked, suspended, or which has expired without renewal may request, and the board may grant, a waiver of the requirement of possession of a current apprentice license.[~~In addition, every applicant for auctioneer's license shall have been the recipient of an accredited high school diploma or the equivalent.~~]

(2) Every application for a license, whether as an auctioneer, apprentice auctioneer, livestock auctioneer, tobacco auctioneer, or auction house operator, shall be submitted on forms prepared by the board. ***Each***[

~~(2) In addition to other requirements imposed by this chapter, Any~~] applicant shall furnish pertinent background data as outlined on ***those***[~~the application~~] forms[~~ furnished by the board~~].

(3)[~~ (a)~~] The issuance fee for each license issued pursuant to this chapter shall be not more than one hundred dollars ($100) and the annual renewal fee for each license shall be not more than one hundred dollars ($100). All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon timely receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4)[~~(b)~~] Beginning with the renewal of licenses expiring on or after June 30, 1993, the board may require as a condition precedent to the renewal of any license, that all licensees complete continuing auction education up to ten (10) hours per year per licensee. The board may impose different continuing auction education requirements, or none, upon different classifications of licensees under this chapter. The continuing auction education requirements provided for in this subsection shall not apply to those individual auctioneers licensed prior to January 1, 1980.

(5)[~~(4)~~] The board shall prepare and deliver to each licensee a license[~~ certificate~~] and pocket card.[~~ The certificate shall be displayed conspicuously at all times in the office of the licensee.~~] The ***license***[~~certificate~~] and pocket card of the apprentice auctioneer shall contain the name and address of ***his or her principal***[~~the~~] auctioneer[~~ under whose supervision he is employed~~].

(a) Auction house operators shall display their licenses conspicuously and at all times in their place of business. All other licenses shall be kept on file in the licensee's place of business.

(b) All licensees shall carry their pocket cards with them when performing auctioneering tasks, to be shown upon request.

(c) Lost licenses or pocket cards will each be replaced upon request by the licensee and payment of a replacement fee of fifteen dollars ($15).

(6)[~~(5)~~] When any apprentice auctioneer is discharged or terminates[~~ his~~] employment with the auctioneer for any reason, it shall be the immediate duty of the ***principal*** auctioneer to deliver or mail by certified mail, return receipt requested, to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his ***or her*** license, until the apprentice auctioneer receives a new license bearing ***a new principal auctioneer's***[~~the~~] name and address[~~ of his new employer~~]. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(7) A licensee may place his or her license in escrow with the board if the licensee does not engage in any auctioneering activity or auction house operations and continues to pay the annual renewal fees during the term of escrow.

(a) For each year the license is in escrow, a licensee shall be exempt from the contribution to the auctioneer's education, research, and recovery fund described in KRS 330.192(1)(b) and the continuing education requirement described in subsection (4) of this section.

(b) To reactivate a license in escrow, the licensee must meet the current year's continuing education requirement described in subsection (4) of this section and pay a reactivation fee of one hundred dollars ($100).

(8)[~~(6)~~] Notice in writing shall be given to the board by each licensee of any change of principal business location or of residence address within ten (10) days of such change. In the event of change of business location address, the board shall issue a new license for the unexpired period. A change of business location without notification to the board within ten (10) days shall automatically suspend or revoke the license of such licensee, as may be ordered in the discretion of the board. Changing a business location or a residence location on its records shall entitle the board to collect ten dollars ($10).

Section 5. KRS 330.090 is amended to read as follows:

(1) A nonresident may become a licensee by conforming to all the conditions of this chapter.

(2) In every instance the nonresident shall pay the issuance fee and the annual renewal fee by this chapter. The nonresident shall also pay the annual fee to the education, research, and recovery fund pursuant to KRS 330.192 and, in addition, any fee required by KRS 330.095, whether or not the examination requirement is waived by the board pursuant to this chapter.

(3) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth, by the service of any summons, process, or pleadings authorized by law on the secretary of the board. The consent shall stipulate and agree that the service of such process, summons, or pleadings on the secretary shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process, or pleadings are served upon the secretary of the board, it shall be by duplicate copies, one of which shall be retained in the office of the board, and the other immediately forwarded by certified mail, return receipt requested, to the last known business address of the applicant against which the summons, process, or pleadings may be directed.

(4) In the event a nonresident applicant for ***an***[~~principal~~] auctioneer's license ***resides***[~~should reside~~] in a state which does not prescribe qualifications for licensing as set out in KRS 330.095, the board may waive the apprenticeship requirement set out in KRS 330.070(1) ***if the***[~~provided that said~~] nonresident nonreciprocal applicant***:***

(a) Resides so far away as to ***preclude***[~~prevent his~~] serving a bona fide apprenticeship under a licensed Kentucky auctioneer***;***[~~,~~] and[~~ further provided that such applicant must exhibit ~~]

(b) Demonstrates to the board by affidavit or by other evidence as required by it that his ***or her*** experience and competency ***meet the qualifications***[~~are sufficient to qualify him~~] to take the examination for[~~ principal~~] auctioneer.

Section 6. KRS 330.095 is amended to read as follows:

Any nonresident applicant who is a licensee in and who resides in another state or country where the qualifications prescribed at the time of licensing were, in the opinion of the board, equal to those prescribed in the Commonwealth of Kentucky at the date of application, and where reciprocal licensing privileges satisfactory to the board are granted to licensees and residents of the Commonwealth, may be granted a license without an examination.[~~ A fee of one hundred dollars ($100)~~] In addition to the fees set out in KRS 330.090***, a reciprocal licensee fee*** shall be collected from each applicant meeting the above requirements. ***The fee shall be the amount of the fee charged by the applicant's state or country to a Kentucky resident applying for a reciprocal license or one hundred dollars ($100), whichever is greater.***

Section 7. KRS 330.110 is amended to read as follows:

The board may suspend for a period up to four (4) years or revoke the license of any licensee, or levy fines not to exceed five hundred dollars ($500) against any licensee, or place any licensee on probation for a period of up to three (3) years, or require successful passage of any examination administered by the board, or require successful completion of any course of auction study or auction seminars designated by the board, or issue a formal reprimand, or order any combination of the above, for violation by any licensee of any of the provisions of this chapter, or for any of the following causes:

(1) Obtaining a license through false or fraudulent representation;

(2) Making any substantial misrepresentation;

(3) Pursuing a continued and flagrant course of misrepresentation or ***intentionally*** making false promises ***or disseminating misleading information*** through agents or advertising or otherwise;

(4) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except his ***or her principal***[~~employer~~] auctioneer;

(5) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into ***the licensee's***[~~his~~] possession, commingling funds of others with ***the licensee's***[~~his~~] own, or failing to keep such funds of others in an escrow or trustee account;

(6) Paying valuable consideration to any person for services performed in violation of this chapter, or procuring, permitting, aiding, or abetting any unlicensed person acting in violation of any of the provisions of this chapter;

(7) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony;

(8) Violation of any administrative regulation promulgated by the board;

(9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer, apprentice auctioneer, or auction house operator;

(10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetency, or untruthfulness;

(11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent dealings;

(12) Failing prior to the sale at public auction or prior to publicly advertising any goods for sale or offering any goods for sale to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives the property for sale;

(13) After January 1, 1993, failure of any licensee to insert in any advertising pertaining to a particular sale the name of the auctioneer.

Section 8. KRS 330.120 is amended to read as follows:

(1) The board may upon its own motion, and shall upon the verified written complaint of any person, investigate the actions of any licensee, or auction house operator, or any person who assumes to act as a licensee if the complaint, or complaint together with other evidence presented in connection with it, makes out a prima facie case of a violation of this chapter. ***If a prima facie case is not established or the violation is deemed inconsequential, the board may immediately dismiss the complaint.***

(2) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

Section 9. KRS 330.192 is amended to read as follows:

(1) (a) There is hereby created and established in the State Treasury the auctioneer's education, research, and recovery

fund.

(b) In addition to the license fees provided for in KRS 330.070, upon renewal of every license issued pursuant to this chapter, the board shall charge every licensee an amount not to exceed thirty dollars ($30) per year to be included in the auctioneer's education, research, and recovery fund. Every original applicant for apprentice or[~~ principal~~] auctioneer's license, and every applicant for an auction house operator's license on and after July 15, 1982, shall likewise submit to the board an additional fee of thirty dollars ($30) to be deposited in the auctioneer's education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal date.

(c) In addition to the license fees provided for in KRS 330.070, the board, based upon its own discretion as to need, may assess each licensee upon renewal an amount equal to or less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant shall pay the original amount of thirty dollars ($30), but upon renewal shall pay the same fee as other licensees.

(2) The purposes of the auctioneer's education, research, and recovery fund shall be as follows:

(a) When a licensee has been duly found guilty of violating any one (1) or more of the provisions of KRS 330.110, or any one (1) or more of the administrative regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved person or persons an aggregate amount not to exceed ***fifty***[~~thirty~~] thousand dollars ***($50,000)***[~~($30,000)~~] against any one (1) licensee, provided that the licensee has refused to pay such claim within a period of twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.

(b) The board shall maintain a minimum level of ***five***[~~four~~] hundred thousand dollars ***($500,000)***[~~($400,000)~~] for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the State Employees' Retirement System and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, will be maintained so that there will be money available to satisfy any and all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.

(c) The board, in its discretion, may use any funds in excess of the ***five***[~~four~~] hundred thousand dollar ***($500,000)***[~~($400,000)~~] level, regardless of whether it is from the auctioneer's education, research, and recovery fund fees or accrued interest thereon, for any of the following purposes:

1. To carry out the advancement of education and research in the auction field for the benefit of those licensed under the provisions of this chapter and the improvement and making even more efficient the auction industry as such;
2. To underwrite educational seminars, caravans, and other forms of educational projects for the use and benefit generally of auctioneer licensees;
3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making such courses available to licensees and the general public who may seek same on a college or university level;
4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;
5. To sponsor, contract for, and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auction field in Kentucky;
6. To cooperate with associations of auctioneers and any other groups for the enlightenment and advancement of the auctioneer licensees of Kentucky; and
7. To increase the level of the auctioneer's education, research, and recovery fund above ***five***[~~four~~] hundred thousand dollars ***($500,000)***[~~($400,000)~~];
8. To augment the regular trust and agency account of the board.

(3) (a) In the event that a licensee is found guilty of one (1) or more provisions of KRS 330.110 or of violating one (1) or more of the administrative regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by a Circuit Court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or of the administrative regulations has occurred and a final order has been entered.

(b) If such an order has been entered and the license rights of the licensee have been finally adjudicated, then the local Circuit Court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations.

(c) When a final order has been entered by the Circuit Court, Court of Appeals, or Supreme Court, and upon certification to the board, the aggrieved party or parties shall be paid such amount or amounts in the aggregate not to exceed ***fifty***[~~thirty~~] thousand dollars ***($50,000)***[~~($30,000)~~] by the board, and the license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until such time as the licensee has reimbursed the auctioneer's education, research, and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.

(d) When, upon the final order of the court, the board has paid from the auctioneer's education, research and recovery fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall, to the extent of the payment, assign his right, title, and interest in the judgment to the commission.

(e) Any funds in excess of the ***five***[~~four~~] hundred thousand dollar ***($500,000)***[~~($400,000)~~] level and which are not being currently used, may be invested and reinvested as set forth in subsection (2)(b) of this section, or, in the discretion of the board, may be utilized for any of the purposes enumerated in subsection (2)(c) of this section.

(f) All the claims for monetary damages or relief from the auctioneer's education, research, and recovery fund must be made in writing on a proof of loss form submitted to the board within six (6) months of the act of the auctioneer giving rise to the loss. Failure to file such claims within the six (6) month period shall bar the claim. Additional evidence will be submitted by the claimant if required by the board.

(g) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than ***fifty***[~~thirty~~] thousand dollars ***($50,000)***[~~($30,000)~~] shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.

(h) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.

(4) All categories of licensees under this chapter are covered under the provisions of this section for the benefit and protection of the public.

(5) This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

SB 355, AN ACT relating to occupational therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319A.100 is amended to read as follows:

A temporary permit to practice as an occupational therapist or occupational therapy assistant may be granted to a person who has completed the education and experience requirements of this chapter and has applied for licensure under the provisions of this chapter. The temporary permit shall allow the applicant for licensure to practice occupational therapy under the supervision of a licensed occupational therapist. The temporary permit shall be valid until the applicant for licensure is issued or denied a license under the provisions of this chapter, but in no instance shall the temporary permit extend for more than sixty (60) days following the second examination offered after the applicant has applied ***to take the examination required for licensure or certification***[~~for licensure~~]. Not more than one (1) temporary permit shall be granted per applicant.

Section 2. KRS 319A.020 is amended to read as follows:

There is hereby created the Kentucky Occupational Therapy Board which shall consist of ***seven (7)***[~~five (5)~~] members to be appointed by the Governor. ***Five (5)***[~~Three (3)~~] members shall be licensed occupational therapists ***with***[~~of~~] at least five (5) years' experience; one (1) member shall be a certified occupational therapy assistant ***with***,[~~ certified by the American Occupational Therapy Association, of~~] at least five (5) years' experience in the practice of occupational therapy; and one (1) member shall be a consumer.[~~ The Governor shall appoint the board within ninety (90) days after July 15, 1986, and annually thereafter.~~]

SB 380, AN ACT relating to marriage and family therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.300 is amended to read as follows:

As used in KRS 335.300 to 335.399, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of ***Licensure***[~~Certification~~] of Marriage and Family Therapists;

(2) "***Licensed***[~~Certified~~] marriage and family therapist" means a person who has completed ***all of the requirements set out in KRS 335.330 and who holds a license issued***[~~a master's or doctoral degree program in marriage and family therapy, or an equivalent course of study, from an accredited educational institution and who is certified~~] by the board;[~~ and~~]

(3) ***"Marriage and family therapy associate" means a person who has completed all requirements set out in KRS 335.330 and who holds a permit issued by the board to practice marriage and family therapy under the conditions set out in Section 9 of this Act and the corresponding administrative regulations promulgated by the board.***

(4) "The practice of marriage and family therapy" means the identification and treatment of cognitive, affective, and behavioral conditions related to marital and family dysfunctions that involve the professional application of psychotherapeutic and systems theories and techniques in the delivery of services to individuals, couples, and families. Nothing in this section shall be construed to authorize any licensed marriage and family therapist or marriage and family therapy associate to administer or interpret psychological tests in accordance with the provisions of KRS Chapter 319[~~"Certificate holder" means a certified marriage and family therapist certified under the provisions of KRS 335.300 to 335.399~~].

SECTION 2. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

Effective January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be entitled to use the title of "licensed marriage and family therapist" until the date of their second annual license renewal. On that date, the licensee shall be required to meet the conditions set forth in subsection (2) of Section 10 of this Act. First-time licensure of a person formerly certified shall be processed as a license renewal under Section 10 of this Act.

Section 3. KRS 335.305 is amended to read as follows:

(1) ***Except as provided in Section 2 of this Act and subsection (2) of this section:***

(a) No person shall use the title "licensed marriage and family therapist," "LMFT," or a title which is substantially the same, or hold himself or herself out as having this status, unless licensed by the board.

(b) No person shall use the title "marriage and family therapy associate" or hold himself or herself out as having this status, unless holding a permit issued by the board.

(2) The provisions of KRS 335.300 to 335.399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, ***art therapists,*** and nurses, or students within accredited training programs of these professions. Nothing in KRS 335.300 to 335.399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

[~~(2) No person shall use the title certified marriage and family therapist or hold himself out as having this status, unless he is certified by the board.~~]

(3) Nothing in KRS 335.300 to 335.399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in KRS 335.300 to 335.399 shall be construed to apply to the activities and services of a student intern or trainee in marriage and family therapy who is pursuing a program of studies in marriage and family therapy at an accredited institution of higher learning if these activities are performed under the supervision and constitute a part of the supervised program of study, and if the person is designated a counseling intern, a marriage and family therapist intern, or student in training.

Section 4. KRS 335.310 is amended to read as follows:

(1) There is created the Kentucky Board of ***Licensure***[~~Certification~~] of Marriage and Family Therapists***. Effective January 1, 1999, it shall be***[~~,~~] composed of ***seven (7)***[~~five (5)~~] members***. Six (6) members shall be licensed marriage and family therapists. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business of marriage and family therapy. All members***[~~who~~] shall be appointed by the Governor ***from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names. Each member of the board shall serve for a term of four (4) years***.

(2) ***All reappointments to the board and vacancies on the board shall be filled by the Governor as described in subsection (1) of this section.***

(3) Each member of the board shall receive one hundred dollars ($100) per day for each day spent performing official duties as a board member and reimbursement for actual and necessary expenses incurred in carrying out official duties. As of the effective date of this Act, all past and present members shall be retroactively paid for each day of service spent performing official duties.

(4) The board shall annually elect a chair, a vice chair, and a secretary-treasurer.

(5) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chairperson or upon written request of two (2) board members. Four (4) board members shall constitute a quorum.

(6) Upon recommendation of the board, the Governor may remove any board member for a poor attendance record, neglect of duty, or malfeasance in office.

(7) No board member shall serve more than two (2) consecutive full terms. A person who has previously served two (2) consecutive terms may be reappointed to the board if that person has not served in the preceding four (4) years~~[Initially, four (4) members shall be appointed by the Governor from a list of eight (8) names submitted by the board of directors of the Kentucky Association for Marriage and Family Therapy. These initial appointees shall possess the qualifications for certification as a marriage and family therapist and shall be deemed certified under the provisions of KRS 335.300 to 335.399 immediately upon their appointments as members of the board. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business of marriage and family therapy. The Governor shall initially appoint one (1) member and the citizen-at-large member to terms of four (4) years, two (2) members to terms of three (3) years, and one (1) member to a term of two (2) years. Thereafter, each member of the board shall serve for a term of four (4) years.~~

~~(3) Beginning July 1, 1996, each board candidate shall be certified as a marriage and family therapist prior to nomination and shall be actively engaged in the practice or teaching of marriage and family therapy, except for the citizen at large member.~~

~~(4) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) names submitted from the Kentucky Association for Marriage and Family Therapy. The list submitted from the Kentucky Association for Marriage and Family Therapy shall consist of the three (3) nominees receiving the most votes in an election for each position to be filled. The election shall be administered by the Kentucky Association for Marriage and Family Therapy. In an election conducted by the Kentucky Association for Marriage and Family Therapy, nominations may be submitted by any interested party. The nominees shall be selected by all marriage and family therapists certified under KRS 335.300 to 335.399]~~.

Section 5. KRS 335.320 is amended to read as follows:

The board shall:

(1) ***Administer and enforce the provisions of this chapter and shall evaluate the qualifications of license and permit applicants***~~[Approve or disapprove the granting of all certificates under KRS 335.300 to 335.399]~~;

(2) Approve the examination required of applicants for ***licensure***~~[certification]~~, provide for the administration and grading of the examination, and provide for other matters relating to ***licensure***~~[certification]~~ in the profession of marriage and family therapy;

(3) Review the credentials of ***licensees***~~[certificate holders]~~ to determine if they are eligible for ***license renewal***~~[recertification]~~ and have paid the fee provided for in KRS 335.340;

(4) ***License***~~[Certify]~~ the marriage and family therapist applicants who satisfy the experience and educational requirements of KRS 335.330~~[and 335.335]~~ and have paid the fee provided for in KRS 335.330;

(5) ***Review and approve contracts between marriage and family therapy associates and approved supervisors for their supervision of practice during the qualifying term;***

(6) Issue permits to marriage and family therapy associate applicants who satisfy the requirements of Section 9 of this Act;

(7) Adopt a code of ethics for ***licensed***~~[certified]~~ marriage and family therapists ***and marriage and family therapy associates***;

(8)~~[(6)]~~ Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board and any decisions rendered; and

(9)~~[(7)]~~ Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purpose and scope of KRS 335.300 to 335.399.

Section 6. KRS 335.325 is amended to read as follows:

The board may:

(1) Employ needed personnel and contract with the Division of Occupations and Professions within the Department of Finance and Administration for the provision of administrative services;

(2) ***Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;***

(3) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of marriage and family therapy by unlicensed persons;

(4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;

(5) Suspend or revoke licenses or permits or impose supervisory or probationary conditions upon licensees or permit holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;

(6) Grant retired or inactive licensure status under conditions set forth by the board by the promulgation of administrative regulations;

(7) Enter into reciprocal agreements with boards of marriage and family therapy in other states having licensure qualifications and requirements that meet or exceed those provided in this chapter;

(8) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B; and

(9) Utilize mediation as a technique to resolve disciplinary matters[~~Investigate suspected violations of KRS 335.300 to 335.399;~~

~~(3) Institute and maintain actions to restrain or enjoin violations of KRS 335.300 to 335.399; and~~

~~(4) Conduct administrative hearings in accordance with KRS Chapter 13B~~].

SECTION 7. A NEW SECTION OF KRS 335.330 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The compensation of board members and all of the board's employees and all expenses incurred by the board shall be paid from this revolving fund.

Section 8. KRS 335.330 is amended to read as follows:

An applicant for ***licensure***[~~certification~~] as a marriage and family therapist shall pay the board an initial fee[~~ for certification~~] which shall be established by administrative regulation promulgated by the board. The applicant shall show the board that the applicant ***has***:

(1) [~~Is at least eighteen (18) years of age;~~

~~(2) Resides in or is employed in the Commonwealth of Kentucky;~~

~~(3) Has~~]Completed a master's or doctoral degree program in marriage and family therapy, from a regionally-accredited educational institution, ***or a master's, post-master's, or doctoral program approved by the Commission on Accreditation for Marriage and Family Therapy Education or any of its successor organizations,*** or an equivalent course of study as defined by the board by promulgation of administrative regulations.

(a) The degree or equivalent course of study shall contain specific coursework on psychopathology and the Diagnostic and Statistical Manual; and

(b) In determining equivalency, the board shall use the criteria for marriage and family therapy education and clinical training approved by the United States Department of Education;

(2) [~~and(4)Has~~]Completed each of the following:

(a) At least two (2) years' experience in the practice of marriage and family therapy, acceptable to the board ***and***[~~,~~] subsequent to being granted a master's degree; ***and***

(b) A minimum of two hundred (200) hours of clinical supervision acceptable to the board ***and subsequent to being granted a master's degree***; and

(3)[~~(c)~~]Passed a written examination prescribed by the board ***by promulgation of administrative regulations***.

SECTION 9. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) A person who fills all of the requirements of KRS 335.330 shall apply to the board for a marriage and family therapist associate permit in order to practice and earn the experience required for license application.

(2) A marriage and family therapy associate shall engage in the practice of marriage and family therapy while receiving qualifying experience by contracting, in writing, with an approved supervisor, as defined by the board in administrative regulations, who shall assume responsibility for and supervise the marriage and family therapy associate's practice as directed by the board by promulgation of administrative regulations. No marriage and family therapy associate shall enter into a practice of marriage and family therapy until this contract has been approved by

the board, and the marriage and family therapy associate shall cease the practice of marriage and family therapy immediately upon termination of the contract. At the termination of the contract, the marriage and family therapy associate shall apply for licensure as a marriage and family therapist or request an extension of the contract from the board.

(3) The fees and all other requirements for a marriage and family therapist associate permit shall be established by the board by promulgation of administrative regulations.

Section 10. KRS 335.340 is amended to read as follows:

(1) ***Licensure***[~~Certification~~] issued under KRS 335.330 shall be renewed ***annually***[~~every three (3) years~~] upon[~~:~~

~~(a)~~]payment of a fee to be established by administrative regulation promulgated by the board not to exceed ***one hundred fifty dollars ($150)***[~~three hundred dollars ($300); and~~

~~(b) Completion of continuing education requirements, as determined by administrative regulation promulgated by the board, not to exceed sixty (60) clock hours per renewal period~~].

(2) ***On January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be deemed "licensed marriage and family therapists" until the date of their second annual license renewal. As of that date, each formerly certified licensee seeking license renewal shall provide the board with verification of education or experience relating to psychopathology, as determined by administration regulations promulgated by the board, to include:***

(a) Coursework in psychopathology;

(b) Supervised experience with a focus on diagnosis; or

(c) Completion of equivalent continuing education units relating to psychopathology.

This subsection shall not apply to license renewals for those persons also licensed or certified by another mental health profession which authorizes diagnosis within its scope of practice.

(3) A ninety (90) day grace period shall be granted during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. Any license not renewed during this period shall expire. The board[~~ shall cancel any certificate not renewed within three (3) months of the renewal date but~~] may reinstate ***an expired license within three (3) years of its expiration date***[~~the certificate~~] upon payment of the renewal fee and satisfaction of other requirements[~~ within one (1) year of the anniversary date of issue of renewal~~].

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice of marriage and family therapy until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his or her license within three (3) years of its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board shall require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulations, not to exceed twenty (20) clock hours per renewal period.

SECTION 11. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license or permit, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any licensee or permit holder upon proof that the licensee or permit holder has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of marriage and family therapy;

(e) Violated any state statute or administrative regulation governing the practice of marriage and family therapy or any activities undertaken by a marriage and family therapist;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics as set forth by the board in administrative regulations; or

(h) Violated any applicable provision of any federal or state law.

(2) Five (5) years from the date of a revocation, any person whose license or permit has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license or permit upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of marriage and family therapy.

(3) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.

(6) The surrender of a license or permit shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.

SECTION 12. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) The board may enter into an agreement with the Kentucky Association of Marriage and Family Therapists for an Impaired Marriage and Family Therapist Committee to undertake the functions and responsibilities of an impaired marriage and family therapist program, as specified in the agreement. The functions and responsibilities may include any of the following:

(a) Receiving and evaluating reports of suspected impairment from any source;

(b) Intervening in cases of verified impairment; or

(c) Referring impaired marriage and family therapists to treatment programs.

(2) Other provisions of law notwithstanding, all board and committee records pertaining to the impaired marriage and family therapist program shall be kept confidential. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

(3) Other provisions of law notwithstanding, no member of the board of the Kentucky Association of Marriage and Family Therapists or the Impaired Marriage and Family Therapist Committee shall be liable for damages to any person for any acts, omissions, or recommendations made in good faith while acting within the scope of responsibilities pursuant to this section.

Section 13. KRS 335.350 is amended to read as follows:

(1) *Before revoking, suspending, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensee or permit holder under the provisions of KRS 335.300 to 335.399, the board shall set the matter for hearing as provided by KRS Chapter 13B*[~~In every disciplinary action taken by the board under KRS 335.150, the certificate holder shall be granted the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B~~].

(2) *After denying an application, refusing to renew a license or permit, or issuing a written admonishment regarding any applicant, licensee, or permit holder under the provisions of KRS 335.300 to 335.399, the board shall set the matter for hearing upon written request filed by the applicant, licensee, or permit holder within thirty (30) days of the date of the letter advising of the denial, refusal, or admonishment*[~~A final order of the board shall become final thirty (30) days after the conclusion of the hearing unless the certificate holder appeals the decision to the Circuit Court where the certificate holder resides. The final order shall remain in effect pending any appeals unless the board provides otherwise in the final order~~].

Section 14. KRS 335.360 is amended to read as follows:

A person whose *license or permit*[~~certificate~~] has been revoked may apply for reinstatement no earlier than *five (5) years*[~~one (1) year~~] from the date of revocation, in accordance with the procedures established by the board by administrative regulation.

Section 15. KRS 335.399 is amended to read as follows:

Any person who shall violate or aid in the violation of KRS 335.305(1) shall upon conviction be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or sentenced to jail for not less than ten (10) days nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury[~~If after a hearing the board finds any applicant or certificate holder whom it regulates under KRS 335.300 to 335.399 has violated the provisions of KRS 335.300 to~~

~~335.399, or any administrative regulation promulgated thereunder, it may issue an order imposing one (1) or more of the following penalties:~~

~~(1) Denial of an application for certification either temporarily or permanently;~~

~~(2) Revocation of a certificate or an application for certification either temporarily or permanently;~~

~~(3) Suspension of a certificate for a period of up to five (5) years;~~

~~(4) Imposition of an administrative fine not to exceed one thousand dollars ($1,000); or~~

~~(5) Issuance of a reprimand~~].

Section 16. The following KRS section is repealed:

335.335 Exemption from examination requirement for applicants until July 15, 1995.

Section 17. Effective January 1, 1999, the Board of Licensure of Marriage and Family Therapists shall be made up of the five (5) current members who shall continue to serve for the terms of their appointments. Two (2) additional members shall be appointed by the Governor in a manner consistent with the requirements of subsection (1) of Section 4 of this Act. The initial terms of these two members shall be three years. Thereafter, these members shall serve for a term of four years.

Section 18. This Act take effects January 1, 1999.

The House Committee Substitute to **SB 380** is as follows:

AN ACT relating to marriage and family therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.300 is amended to read as follows:

As used in KRS 335.300 to 335.399, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of ***Licensure***[~~Certification~~] of Marriage and Family Therapists;

(2) "***Licensed***[~~Certified~~] marriage and family therapist" means a person who has completed ***all of the requirements set out in KRS 335.330 and who holds a license issued***[~~a master's or doctoral degree program in marriage and family therapy, or an equivalent course of study, from an accredited educational institution and who is certified~~] by the board;[~~ and~~]

(3) ***"Marriage and family therapy associate" means a person who has completed all requirements set out in KRS 335.330 and who holds a permit issued by the board to practice marriage and family therapy under the conditions set out in Section 9 of this Act and the corresponding administrative regulations promulgated by the board.***

(4) "The practice of marriage and family therapy" means the identification and treatment of cognitive, affective, and behavioral conditions related to marital and family dysfunctions that involve the professional application of psychotherapeutic and systems theories and techniques in the delivery of services to individuals, couples, and families. Nothing in this section shall be construed to authorize any licensed marriage and family therapist or marriage and family therapy associate to administer or interpret psychological tests in accordance with the provisions of KRS Chapter 319[~~"Certificate holder" means a certified marriage and family therapist certified under the provisions of KRS 335.300 to 335.399~~].

SECTION 2. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

Effective January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be entitled to use the title of "licensed marriage and family therapist" until the date of their second annual license renewal. On that date, the licensee shall be required to meet the conditions set forth in subsection (2) of Section 10 of this Act. First-time licensure of a person formerly certified shall be processed as a license renewal under Section 10 of this Act.

Section 3. KRS 335.305 is amended to read as follows:

(1) ***Except as provided in Section 2 of this Act and subsection (2) of this section:***

  (a) No person shall use the title "licensed marriage and family therapist," "LMFT," or a title which is substantially the same, or hold himself or herself out as having this status, unless licensed by the board.

  (b) No person shall use the title "marriage and family therapy associate" or hold himself or herself out as having this status, unless holding a permit issued by the board.

(2) The provisions of KRS 335.300 to 335.399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, ***art therapists,*** and nurses, or students within accredited training programs of these professions. Nothing in KRS 335.300 to 335.399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

[~~(2) No person shall use the title certified marriage and family therapist or hold himself out as having this status, unless he is certified by the board.~~]

(3) Nothing in KRS 335.300 to 335.399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in KRS 335.300 to 335.399 shall be construed to apply to the activities and services of a student intern or trainee in marriage and family therapy who is pursuing a program of studies in marriage and family therapy at an accredited institution of higher learning if these activities are performed under the supervision and constitute a part of the supervised program of study, and if the person is designated a counseling intern, a marriage and family therapist intern, or student in training.

Section 4. KRS 335.310 is amended to read as follows:

(1) There is created the Kentucky Board of ***Licensure***~~[Certification]~~ of Marriage and Family Therapists***. Effective January 1, 1999, it shall be***~~[,]~~ composed of ***seven (7)***~~[five (5)]~~ members***. Six (6) members shall be licensed marriage and family therapists. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business of marriage and family therapy. All members***~~[who]~~ shall be appointed by the Governor ***from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names. Each member of the board shall serve for a term of four (4) years***.

(2) ***All reappointments to the board and vacancies on the board shall be filled by the Governor as described in subsection (1) of this section.***

(3) Each member of the board shall receive one hundred dollars ($100) per day for each day spent performing official duties as a board member and reimbursement for actual and necessary expenses incurred in carrying out official duties.

(4) The board shall annually elect a chair, a vice chair, and a secretary-treasurer.

(5) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chairperson or upon written request of two (2) board members. Four (4) board members shall constitute a quorum.

(6) Upon recommendation of the board, the Governor may remove any board member for a poor attendance record, neglect of duty, or malfeasance in office.

(7) No board member shall serve more than two (2) consecutive full terms. A person who has previously served two (2) consecutive terms may be reappointed to the board if that person has not served in the preceding four (4) years~~[Initially, four (4) members shall be appointed by the Governor from a list of eight (8) names submitted by the board of directors of the Kentucky Association for Marriage and Family Therapy. These initial appointees shall possess the qualifications for certification as a marriage and family therapist and shall be deemed certified under the provisions of KRS 335.300 to 335.399 immediately upon their appointments as members of the board. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business of marriage and family therapy. The Governor shall initially appoint one (1) member and the citizen at large member to terms of four (4) years, two (2) members to terms of three (3) years, and one (1) member to a term of two (2) years. Thereafter, each member of the board shall serve for a term of four (4) years.~~

~~(3) Beginning July 1, 1996, each board candidate shall be certified as a marriage and family therapist prior to nomination and shall be actively engaged in the practice or teaching of marriage and family therapy, except for the citizen at large member.~~

~~(4) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) names submitted from the Kentucky Association for Marriage and Family Therapy. The list submitted from the Kentucky Association for Marriage and Family Therapy shall consist of the three (3) nominees receiving the most votes in an election for each position to be filled. The election shall be administered by the Kentucky Association for Marriage and Family Therapy. In an election conducted by the Kentucky Association for Marriage and Family Therapy, nominations may be submitted by any interested party. The nominees shall be selected by all marriage and family therapists certified under KRS 335.300 to 335.399]~~.

Section 5. KRS 335.320 is amended to read as follows:

The board shall:

(1) ***Administer and enforce the provisions of this chapter and shall evaluate the qualifications of license and permit applicants***~~[Approve or disapprove the granting of all certificates under KRS 335.300 to 335.399]~~;

(2) Approve the examination required of applicants for ***licensure***~~[certification]~~, provide for the administration and grading of the examination, and provide for other matters relating to ***licensure***~~[certification]~~ in the profession of marriage and family therapy;

(3) Review the credentials of ***licensees***~~[certificate holders]~~ to determine if they are eligible for ***license renewal***~~[recertification]~~ and have paid the fee provided for in KRS 335.340;

(4) ***License***~~[Certify]~~ the marriage and family therapist applicants who satisfy the experience and educational requirements of

KRS 335.330~~[and 335.335]~~ and have paid the fee provided for in KRS 335.330;

(5) *Review and approve contracts between marriage and family therapy associates and approved supervisors for their supervision of practice during the qualifying term;*

(6) Issue permits to marriage and family therapy associate applicants who satisfy the requirements of Section 9 of this Act;

(7) Adopt a code of ethics for *licensed*~~[certified]~~ marriage and family therapists *and marriage and family therapy associates*;

(8)~~[(6)]~~ Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board and any decisions rendered; and

(9)~~[(7)]~~ Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purpose and scope of KRS 335.300 to 335.399.

Section 6. KRS 335.325 is amended to read as follows:

The board may:

(1) Employ needed personnel and contract with the Division of Occupations and Professions within the Department of Finance and Administration for the provision of administrative services;

(2) *Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;*

(3) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of marriage and family therapy by unlicensed persons;

(4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;

(5) Suspend or revoke licenses or permits or impose supervisory or probationary conditions upon licensees or permit holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;

(6) Grant retired or inactive licensure status under conditions set forth by the board by the promulgation of administrative regulations;

(7) Enter into reciprocal agreements with boards of marriage and family therapy in other states having licensure qualifications and requirements that meet or exceed those provided in this chapter;

(8) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B; and

(9) Utilize mediation as a technique to resolve disciplinary matters~~[Investigate suspected violations of KRS 335.300 to 335.399;~~

~~(3) Institute and maintain actions to restrain or enjoin violations of KRS 335.300 to 335.399; and~~

~~(4) Conduct administrative hearings in accordance with KRS Chapter 13B]~~.

SECTION 7. A NEW SECTION OF KRS 335.330 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) The compensation of board members and all of the board's employees and all expenses incurred by the board shall be paid from this revolving fund.

Section 8. KRS 335.330 is amended to read as follows:

An applicant for *licensure*~~[certification]~~ as a marriage and family therapist shall pay the board an initial fee~~[for certification]~~ which shall be established by administrative regulation promulgated by the board. The applicant shall show the board that the applicant *has*:

(1) ~~[Is at least eighteen (18) years of age;~~

~~(2) Resides in or is employed in the Commonwealth of Kentucky;~~

~~(3) Has]~~Completed a master's or doctoral degree program in marriage and family therapy, from a regionally-accredited educational institution, *or a master's, post-master's, or doctoral program approved by the Commission on Accreditation for Marriage and Family Therapy Education or any of its successor organizations,* or an equivalent course of study as defined by the board by promulgation of administrative regulations.

(a) The degree or equivalent course of study shall contain specific coursework on psychopathology and the Diagnostic and Statistical Manual; and

(b) In determining equivalency, the board shall use the criteria for marriage and family therapy education and clinical training approved by the United States Department of Education;

(2) [~~and(4)Has ~~]Completed each of the following:

(a) At least two (2) years' experience in the practice of marriage and family therapy, acceptable to the board ***and***[~~,~~] subsequent to being granted a master's degree; ***and***

(b) A minimum of two hundred (200) hours of clinical supervision acceptable to the board ***and subsequent to being granted a master's degree***; and

(3)[~~(c)~~]Passed a written examination prescribed by the board ***by promulgation of administrative regulations***.

SECTION 9. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) A person who fills all of the requirements of KRS 335.330 shall apply to the board for a marriage and family therapist associate permit in order to practice and earn the experience required for license application.

(2) A marriage and family therapy associate shall engage in the practice of marriage and family therapy while receiving qualifying experience by contracting, in writing, with an approved supervisor, as defined by the board in administrative regulations, who shall assume responsibility for and supervise the marriage and family therapy associate's practice as directed by the board by promulgation of administrative regulations. No marriage and family therapy associate shall enter into a practice of marriage and family therapy until this contract has been approved by the board, and the marriage and family therapy associate shall cease the practice of marriage and family therapy immediately upon termination of the contract. At the termination of the contract, the marriage and family therapy associate shall apply for licensure as a marriage and family therapist or request an extension of the contract from the board.

(3) The fees and all other requirements for a marriage and family therapist associate permit shall be established by the board by promulgation of administrative regulations.

Section 10. KRS 335.340 is amended to read as follows:

(1) ***Licensure***[~~Certification~~] issued under KRS 335.330 shall be renewed ***annually***[~~every three (3) years~~] upon[~~:~~

~~(a)~~]payment of a fee to be established by administrative regulation promulgated by the board not to exceed ***one hundred fifty dollars ($150)***[~~three hundred dollars ($300); and~~

~~(b) Completion of continuing education requirements, as determined by administrative regulation promulgated by the board, not to exceed sixty (60) clock hours per renewal period~~].

(2) ***On January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be deemed "licensed marriage and family therapists" until the date of their second annual license renewal. As of that date, each formerly certified licensee seeking license renewal shall provide the board with verification of education or experience relating to psychopathology, as determined by administration regulations promulgated by the board, to include:***

(a) Coursework in psychopathology;

(b) Supervised experience with a focus on diagnosis; or

(c) Completion of equivalent continuing education units relating to psychopathology.

This subsection shall not apply to license renewals for those persons also licensed or certified by another mental health profession which authorizes diagnosis within its scope of practice.

(3) A ninety (90) day grace period shall be granted during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. Any license not renewed during this period shall expire. The board[~~ shall cancel any certificate not renewed within three (3) months of the renewal date but~~] may reinstate ***an expired license within three (3) years of its expiration date***[~~the certificate~~] upon payment of the renewal fee and satisfaction of other requirements[~~ within one (1) year of the anniversary date of issue of renewal~~].

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice of marriage and family therapy until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his or her license within three (3) years of its termination may not have it renewed,

restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board shall require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulations, not to exceed twenty (20) clock hours per renewal period.

SECTION 11. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license or permit, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any licensee or permit holder upon proof that the licensee or permit holder has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of marriage and family therapy;

(e) Violated any state statute or administrative regulation governing the practice of marriage and family therapy or any activities undertaken by a marriage and family therapist;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics as set forth by the board in administrative regulations; or

(h) Violated any applicable provision of any federal or state law.

(2) Five (5) years from the date of a revocation, any person whose license or permit has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license or permit upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of marriage and family therapy.

(3) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.

(6) The surrender of a license or permit shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.

SECTION 12. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) The board may enter into an agreement with the Kentucky Association of Marriage and Family Therapists for an Impaired Marriage and Family Therapist Committee to undertake the functions and responsibilities of an impaired marriage and family therapist program, as specified in the agreement. The functions and responsibilities may include any of the following:

(a) Receiving and evaluating reports of suspected impairment from any source;

(b) Intervening in cases of verified impairment; or

(c) Referring impaired marriage and family therapists to treatment programs.

(2) Other provisions of law notwithstanding, all board and committee records pertaining to the impaired marriage and family therapist program shall be kept confidential. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

(3) Other provisions of law notwithstanding, no member of the board of the Kentucky Association of Marriage and Family Therapists or the Impaired Marriage and Family Therapist Committee shall be liable for damages to any person for any acts, omissions, or recommendations made in good faith while acting within the scope of responsibilities pursuant to this section.

Section 13. KRS 335.350 is amended to read as follows:

(1) ***Before revoking, suspending, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensee or permit holder under the provisions of KRS 335.300 to 335.399, the board shall set the matter for hearing as provided by KRS Chapter 13B***[~~In every disciplinary action taken by the board under KRS 335.150, the certificate holder shall be granted the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B~~].

(2) ***After denying an application, refusing to renew a license or permit, or issuing a written admonishment regarding any applicant, licensee, or permit holder under the provisions of KRS 335.300 to 335.399, the board shall set the matter for hearing upon written request filed by the applicant, licensee, or permit holder within thirty (30) days of the date of the letter advising of the denial, refusal, or admonishment***[~~A final order of the board shall become final thirty (30) days after the conclusion of the hearing unless the certificate holder appeals the decision to the Circuit Court where the certificate holder resides. The final order shall remain in effect pending any appeals unless the board provides otherwise in the final order~~].

Section 14. KRS 335.360 is amended to read as follows:

A person whose ***license or permit***[~~certificate~~] has been revoked may apply for reinstatement no earlier than ***five (5) years***[~~one (1) year~~] from the date of revocation, in accordance with the procedures established by the board by administrative regulation.

Section 15. KRS 335.399 is amended to read as follows:

Any person who shall violate or aid in the violation of KRS 335.305(1) shall upon conviction be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or sentenced to jail for not less than ten (10) days nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury[~~If after a hearing the board finds any applicant or certificate holder whom it regulates under KRS 335.300 to 335.399 has violated the provisions of KRS 335.300 to 335.399, or any administrative regulation promulgated thereunder, it may issue an order imposing one (1) or more of the following penalties:~~

~~(1) Denial of an application for certification either temporarily or permanently;~~

~~(2) Revocation of a certificate or an application for certification either temporarily or permanently;~~

~~(3) Suspension of a certificate for a period of up to five (5) years;~~

~~(4) Imposition of an administrative fine not to exceed one thousand dollars ($1,000); or~~

~~(5) Issuance of a reprimand~~].

Section 16. The following KRS section is repealed:

335.335 Exemption from examination requirement for applicants until July 15, 1995.

Section 17. Effective January 1, 1999, the Board of Licensure of Marriage and Family Therapists shall be made up of the five (5) current members who shall continue to serve for the terms of their appointments. Two (2) additional members shall be appointed by the Governor in a manner consistent with the requirements of subsection (1) of Section 4 of this Act. The initial terms of these two members shall be three years. Thereafter, these members shall serve for a term of four years.

Section 18. This Act take effects January 1, 1999.

Calendar

HR 130, SB 72, SB 328, SB 336, HB 669, SB 88, SB 119, SB 146, SB 171, SB 276, SB 352, HB 743, SB 41, SB 77, SB 208, SB 248, SCR 95, SB 164, SB 214, and **SJR 118** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 1 to **SB 171**, by Representative Vincent:

On page 1, line 19, after "***parties.***", by inserting "***In no instance shall the Commonwealth's attorney, or a person employed by the Commonwealth's attorney's office, be compelled to testify at the hearing.***"

Floor Amendment No. 1 to **SB 208**, by Representative D. Butler:

On page 5, line 3, following "(5)", by inserting "***The commission may invest proceeds from the sale of its revenue or other authorized bonds in financial instruments and investments***", and by placing an opening bracket before the comma, and striking through ", the commission may invest proceeds from the sale of its"; and

On page 5, by striking through all of the text on lines 4 to 27; and

On page 6, by striking through all text; and

On page 7, by striking through all text on lines 1 to 18; and

On page 7, line 19, by striking through "rating service" and by placing a closing bracket after "service", and by deleting "***; and***"; and

On page 7, by deleting lines 20 and 21 in their entirety; and

On page 7, line 22, by deleting "***deposit of public funds***".

Orders of the Day

SB 43, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Committee Amendment No. 1 to **SB 43**. Agreed.

Representative A. Arnold moved that **SB 43**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 18, 1998 roll call on **SB 43** - Appendix.) **SB 43**, as amended, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 43**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 70, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of the Committee Substitute to **SB 70**. Agreed.

Representative D. Butler moved that **SB 70**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 76, Nays 13 (See March 18, 1998 roll call on **SB 70** - Appendix.) **SB 70**, by way of Committee Substitute, was passed and the title agreed to. Representative D. Butler moved that the vote by which **SB 70**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 207, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **SB 207**. Agreed.

Representative Barrows moved that **SB 207**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 2 (See March 18, 1998 roll call on **SB 207** - Appendix.) **SB 207**, as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **SB 207**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 5, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **SB 5** be passed.

Representative Rasche moved the adoption of Floor Amendment No. 1 to **SB 5**. Representative Brown inquired if Floor Amendment No. 1 to **SB 5** was germane. The Speaker ruled that Floor Amendment No. 1 to **SB 5** was not germane.

On the roll call the vote was: Yeas 93, Nays 0 (See March 18, 1998 roll call on **SB 5** - Appendix.) **SB 5** was passed and the title agreed to. Representative Brown moved that the vote by which **SB 5** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 85 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 85** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 18, 1998 roll call on **SB 85** - Appendix.) **SB 85** was passed and the title agreed to. Representative Wilkey moved that the vote by which **SB 85** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 105** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 18, 1998 roll call on **SB 105** - Appendix.) **SB 105** was passed and the title agreed to. Representative Long moved that the vote by which **SB 105** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 135, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **SB 135**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 2 to **SB 135**. Agreed.

Representative Bruce moved that **SB 135**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 18, 1998 roll call on **SB 135** - Appendix.) **SB 135**, as amended, was passed and the title agreed to. Representative Bruce moved that the vote by which **SB 135**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 101, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 101** be passed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **SB 101**. Representative Allen inquired if Floor Amendment No. 1 to **SB 101** was germane. The Speaker ruled that Floor Amendment No. 1 to **SB 101** was not germane.

On the roll call on passage the vote was: Yeas 94, Nays 0 (See March 18, 1998 roll call on **SB 101** - Appendix.) **SB 101** was passed and the title agreed to. Representative Collins moved that the vote by which **SB 101** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 141 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 141** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 18, 1998 roll call on **SB 141** - Appendix.) **SB 141** was passed and the title agreed to. Representative Collins moved that the vote by which **SB 141** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 102, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 102** be passed.

Representative Murgatroyd moved the adoption of Floor Amendment No. 1 to **SB 102**. Agreed.

Representative Collins moved that **SB 102**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 18, 1998 roll call on **SB 102** - Appendix.) **SB 102**, as amended, was passed and the title agreed to. Representative Collins moved that the vote by which **SB 102**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 139 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 139** be passed.

On the roll call the vote was: Yeas 74, Nays 20 (See March 18, 1998 roll call on **SB 139** - Appendix.) **SB 139** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 139** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 88 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **SCR 88** be adopted.

On the roll call the vote was: Yeas 89, Nays 0 (See March 18, 1998 roll call on **SCR 88** - Appendix.) **SCR 88** was adopted. Representative Adkins moved that the vote by which **SCR 88** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 78, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Floor Amendment No. 1 to **SB 78**. Agreed.

Representative A. Arnold moved that **SB 78**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 2 (See March 18, 1998 roll call on **SB 78** - Appendix.) **SB 78**, as amended, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 78**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 198, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Floor Amendment No. 1 to **SB 198**. Agreed.

Representative Thomas moved that **SB 198**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March, 1998 roll call on **SB 198** - Appendix.) **SB 198**, as amended, was passed and the title agreed to. Representative Thomas moved that the vote by which **SB 198**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 221, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Committee Amendment No. 1 to **SB 221**. Agreed. Representative Haydon moved the adoption of Floor Amendment No. 1 to **SB 221**. Agreed.

Representative Haydon moved that **SB 221**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 18, 1998 roll call on **SB 221** - Appendix.) **SB 221**, as amended, was passed and the title agreed to. Representative Haydon moved that the vote by which **SB 221**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 142 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 142** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 18, 1998 roll call on **SB 142** - Appendix.) **SB 142** was passed and the title agreed to. Representative Barrows moved that the vote by which **SB 142** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the posting be waived on **HR 134**. Agreed.

Representative Maricle moved the adoption of the following **Legislative Citation No. 173**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the North Bullitt High School JROTC Team upon receiving Overall Championship honors in their final meet of the year in Corbin, Kentucky. These outstanding cadets have demonstrated remarkable talent, motivation and hard work and, by this laudable accomplishment, they have brought great honor to their school, to their community and to this Commonwealth. The members of this prestigious body are pleased to join with Representative Allen Maricle in commending these exemplary young citizens on their achievement and in welcoming them to the House Chambers to view a day in the 1998 Kentucky General Assembly. **Legislative Citation No. 173** was adopted without objection.

Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 172**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Mental Retardation Awareness Month as observed during this month of March by The Advocates for the Rights of Citizens with Mental Retardation and Related Disabilities. This year represents the twentieth consecutive year of this nationwide observance by The Arc state chapter and local affiliates, groups which serve children and adults who suffer from this intellectual disability, in an attempt to build public understanding of mental retardation and the work of The Arc. The members of the House of Representatives join Representative Richard in recognizing The Arc of Kentucky, which was founded in 1955, and which represents the largest volunteer organization in the state dedicated to attaining and ensuring a better life for Kentuckians with mental retardation and their families through prevention efforts, research, advocacy, education and family support. **Legislative Citation No. 172** was adopted without objection.

Representative Marzian moved the adoption of the following **Legislative Citation No. 165**. Agreed.

To All to Whom These Presents Shall Come, Greetings: Know Ye, That Louis Adam Miller having been given Legislative Recognition for receiving a battlefield promotion for leadership while on the front lines in World War II; for his determined and miraculous recovery from near-mortal wounds sustained while serving with Troop C, 4th Squadron, 4th U. S. Cavalry, in Germany; upon being named "Hero of the Month," by the Disabled American Veterans for successfully rehabilitating himself; for further being honored by St. Xavier High School as the outstanding alumnus of 1996; for his willingness, this spring, to return to Germany as an invited guest to substantiate an alliance between the American soldiers stationed near Dormagen and the German citizens of that vicinity; and for his phenomenal contributions as a war hero, an author, a promoter, a fund-raiser for charitable organizations and an inspired and highly productive member of the workforce who has made substantive contributions to the good of the Commonwealth; on Motion of Representative Mary Lou Marzian is hereby deemed by this honorable body worthy of its special acknowledgments and is deemed an Outstanding Citizen of the Commonwealth and vested with all the privileges and responsibilities therein. **Legislative Citation No. 165** was adopted without objection.

Representative Marzian moved the adoption of the following **Legislative Citation No. 170**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Sandra Hoover of Louisville Male High School for lending phenomenal support to the senior government students in preparation for the upcoming National "We the People" Competition in Washington, D. C. Whereas, the 24 students representing Louisville Male High School were selected from a competitive field of 130 within the school and went on to compete at the state level in this event coordinated by the Administrative Office of the Courts, winning the state championship; and, whereas this is the fourth time a school in Jefferson County has participated in this worthwhile program designed to foster a better understanding of the Constitution and the Bill of Rights; and, whereas this is also the fourth year Louisville Male High School has won the state competition; therefore, the members of this honorable body are delighted to join with Representative Mary Lou Marzian in commending Sandra Hoover for remarkable contributions to her students and extending best wishes in the national competition. **Legislative Citation No. 170** was adopted without objection.

Representative Coleman moved the adoption of the following **Legislative Citation No. 171**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Anderson County High School Government Students upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join Representative Jack Coleman in welcoming the government students from Anderson County High School to the Chambers of the Kentucky House of Representatives and in extending to them best wishes for the future. **Legislative Citation No. 171** was adopted without objection.

Representative Zimmerman moved the adoption of the following **Legislative Citation No. 175**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Buckner Alternative School of Oldham County. This extraordinary school, led by principal, Dan Orman, has made unprecedented strides to create a learning environment that is both safe and productive for students with behavioral disorders or those who have not been able to function in a regular school environment. In a time when so many of Kentucky's children face untold dangers in their everyday lives, this institution is applauded for its efforts to produce young adults who have improved self-esteem, more independence and a greater appreciation for education and community. The members of this august body are pleased to join with Representative James Zimmerman in paying tribute to Principal Dan Orman and the staff of Buckner Alternative School for the immense and valuable contributions they have made to the lives of the children of this great Commonwealth and in extending to them best wishes for continued success in the future. **Legislative Citation No. 175** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 6 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by inserting the following section:

"Section 14. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner.[~~The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.~~]

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Human Resources shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically-recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."; and

On page 20, line 1 by renumbering "Section 14" as "Section 15".

Floor Amendment No. 7 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by inserting the following section:

"Section 14. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.75
6 to 10%	1.00
11 to 15%	1.25
16 to 20%	1.50
21 to 25%	1.75
26 to 30%	2.00
31 to 35%	2.25

36% and above	2.50

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

4. For permanent partial disability, if, in the opinion of the administrative law judge, a permanent disability rating under paragraph (b) of this subsection does not accurately reflect the true disability caused by the injury, the administrative law judge shall have the discretion to increase or decrease the factor to calculate disability by 0.75.

5. For permanent partial disability, if, in the opinion of the administrative law judge, the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, do not adequately address the injured condition of the employee, the administrative law judge shall have the discretion to consider other standardized guidelines, treatises, or other medical evidence in determining disability.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable."; and

On page 20, line 1, by renumbering "Section 14" as "Section 15".

Floor Amendment No. 8 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following sections:

"Section 14. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.75
6 to 10%	1.00
11 to 15%	1.25
16 to 20%	1.50
21 to 25%	1.75

26 to 30%	2.00
31 to 35%	2.25
36% and above	2.50

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) [~~1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.~~

~~2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.~~

~~3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.~~

~~(d)~~]For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(d)[~~(e)~~]For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Section 15. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses, fraud, ~~[or conforming the award as set forth in KRS 342.730(1)(c)2.,]~~ or for reducing a permanent total disability award when an employee returns to work, no claim shall be reopened more than four (4) years following the date of the original award or order granting or denying benefits, or within two (2) years of such award or order, and no party may file a motion to reopen within two (2) years of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.; and

On page 20, line 1, by renumbering "Section 14" as "Section 16"."

Floor Amendment No. 9 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include ~~[the effects of the natural aging process, and does not include]~~ any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to

employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees.

Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-

accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).; and

On page 20, line 1, by renumbering "Section 14" as "Section 15"."

Floor Amendment No. 10 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by inserting the following section:

"Section 14. KRS 342.267 is amended to read as follows:

If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier. ***In addition, the employee shall retain the right to bring a cause of action against an insurance carrier, self-insurance group, or self-insured employer for violations of the section.***"; and

On page 20, line 1, by renumbering "Section 14" as "Section 15".

Floor Amendment No. 11 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to ***an employee's usual and customary*** employment;

  (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to ***engage in substantial gainful employment*** ~~[work]~~; and

  (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability~~[rating]~~ and has~~[a complete and]~~ permanent inability to perform any type of ***substantial gainful employment*** ~~[work]~~ as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

    1. Total and permanent loss of sight in both eyes;
    2. Loss of both feet at or above the ankle;
    3. Loss of both hands at or above the wrist;
    4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
    5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
    6. Incurable ***psychiatric or psychological disease or disorder as defined by the "Guides to Evaluation of Permanent Impairment," American Medical Association, latest available edition*** ~~[insanity or imbecility]~~; or
    7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or

processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b); and

On page 20, line 1, by renumbering "Section 14." as "Section 15."."

Floor Amendment No. 12 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses~~[,]~~ ***or*** fraud, ~~[or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work,]~~ no claim shall be reopened more than ~~[four (4) years]~~ ***five hundred twenty (520) weeks*** following the date ***that*** ~~[of]~~ the original award or order granting or denying benefits ***becomes final***, or ***except in situations involving surgical intervention*** within ***one (1) year*** ~~[two (2) years]~~ of such award or order, and ***, except in situations involving surgical intervention,*** no party may file a motion to reopen within ***one (1) year*** ~~[two (2) years]~~ of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed

occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to ***the effective date of this Act*** ~~[December 12, 1996]~~, may be reopened within ***five hundred twenty (520) weeks*** ~~[four (4) years]~~ of the award or order or within ***five hundred twenty (520) weeks*** ~~[four (4) years]~~ of ***the effective date of this Act*** ~~[December 12, 1996]~~, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.; and

On page 20, line 1; by renumbering "Section 14" as "Section 15"."

Floor Amendment No. 13 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) If an employee has a radiographic classification of category ***1/0*** ~~[1/1 or 1/2]~~, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by report of X-ray which conforms to the standards for X-rays contained in subsection (3) of KRS 342.316, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of ~~[fifty-five percent (55%) or more but less than]~~eighty percent (80%) ***or above*** of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740 but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one-hundred-eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars ($3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.

(b) ***If it is determined that an employee has a radiographic classification of category 1/1, 1/2, 2/1, or 2/3, based on the latest ILO International Classification of Radiographic and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of eighty percent (80%) or above of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, there shall be an irrebutable presumption that the employee has an occupational disability rating of ten percent (10%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage multiplied by a disability rating of ten percent (10%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined under KRS 342.740. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).***

(c) If it is determined that an employee has a radiographic classification of category ***1/0,***1/1 ,~~[or]~~ 1/2, ***2/1, 2/2, or 2/3*** based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of ~~[less than]~~ fifty-five percent (55%) ***or more but less than eighty percent (80%)*** of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, or category ***3/2 or 3/3*** ~~[2/1, 2/2, or 2/3]~~ coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of ~~[fifty-five percent (55%) or more but less than]~~ eighty percent (80%) ***or more*** of the predicted normal values, there shall be an irrebuttable presumption that the employee has an occupational disability rating of ***twenty-five percent (25%)*** ~~[fifty percent (50%)]~~ resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of ***twenty-five percent (25%)*** ~~[fifty percent (50%)]~~ but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(d) ~~[(c)]~~ If it is determined that an employee has a radiographic classification of category ***1/0, 1/1,1/2,***2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee is ***fifty percent (50%)*** ~~[seventy-five percent (75%)]~~ disabled resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of ***fifty percent (50%)*** ~~[seventy-five percent (75%)]~~ but not to exceed seventy-five percent (75%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(e) (d) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge or arbitrator that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge or arbitrator shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.; and

On page 20, line 1, by renumbering "Section 14" as" Section 15"."

Floor Amendment No. 14 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.75
6 to 10%	1.00
11 to 15%	1.25
16 to 20%	1.50
21 to 25%	1.75
26 to 30%	2.00
31 to 35%	2.25
36% and above	2.50

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is

sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) ~~[Subject to the limitations contained in subsection (4) of this section, w]~~ ***W***hen an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) ~~[All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old age Social Security retirement benefits.~~

~~(5)~~] All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(5)[~~(6)~~] All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(6)[~~(7)~~] If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable; and

Section 15. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3)[~~ and (4)~~] of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the

average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) of this section shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) In addition to other benefits as provided by this chapter, if death occurs within four (4) years of the date of injury as a direct result of a work-related injury, a lump-sum payment of twenty-five thousand dollars ($25,000) shall be made to the deceased's estate, from which the cost of burial and cost of transportation of the body to the employee's place of residence shall be paid.

[~~(7) All benefits awarded pursuant to this section, other than those provided in subsection (6) of this section, shall be subject to the limitations contained in KRS 342.730(4).~~]; and

On page 20, line 1, by renumbering "Section 14." as "Section 16."

Floor Amendment No. 15 Title to **SB 177**, by Representative Deskins:

Amend title to read: AN ACT relating to labor.

Motions, Petitions and Communications (Continued)

Representative Burch moved the adoption of the following **Legislative Citation No. 166**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of St. Pius X Elementary School an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are delighted to join with Representative Tom Burch in applauding the initiative of the students and teachers of St. Pius X Elementary School and in extending a warm welcome as they visit this Chamber to witness the legislature in action. **Legislative Citation No. 166** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 16 to **SB 177**, by Representative Deskins:

On page 19, after line 27, by adding the following section:

"Section 14. KRS 342.230 is amended to read as follows:

(1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, arbitrators, administrative law judges, and board members, shall be members of the classified service.

(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges and arbitrators on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges, arbitrators, and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board, the administrative law judges, and arbitrators; annually report the activities of the board, administrative law judges, and arbitrators to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not ***more*** [~~less~~] than the salary of ***the Chief Judge of the Court of Appeals***[~~a member of the board~~].

(3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years'

experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case. To carry out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.

(4) To ensure that the administrative law judges and arbitrators perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.

(5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge or arbitrator. A member of the board or an administrative law judge or an arbitrator may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge, an arbitrator, or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

(6) Any vacancy in the term of an administrative law judge or an arbitrator, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars ($3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.

(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators

and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars ($2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.

(11) (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.

(b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter; and

On page 20, line 1, by renumbering "Section 14." as "Section 15."."

Floor Amendment No. 1 to **SB 309**, by Representative Collins:

On page 2, after line 23, by inserting the following:

"Section 2. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, ***adjusted for weather-related low attendance days if applicable,*** divided by the actual number of days the school is in session;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year.

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year.

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.

(17) "Weather-related low attendance day" means a school day on which the district's attendance falls below the percentage of average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the Kentucky Board of Education in accordance with its administrative regulations.".

Floor Amendment No. 2 Title to **SB 309**, by Representative Collins:

By amending the title to read as follows: AN ACT relating to schools.

Motions, Petitions and Communications (Continued)

Representative Riggs moved that the rules be suspended to withdrawn **HB 416**. Agreed.

Representative Marzian moved that the rules be suspended to withdrawn **HB 793**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **HB 779, HB 782, HB 595, HB 786, HCR 113, HB 804, HB 223,** and **HB 771**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Stacy moved that he be recorded as voting "yea" on **SB 43** and **SB 70**. Agreed.

Representative Jenkins moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Jenkins moved that her vote be changed from "yea" to "nay" on **HB 784**. Agreed. Representative Jenkins moved that she be recorded as voting "yea" on **HB 462**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ratliff moved that his vote be changed from "yea" to "nay" on **SB 139**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **SB 43**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Sims moved that her vote be changed from "yea" to "nay" on Floor Amendment No. 7 to **HB 535**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Alexander moved that he be recorded as voting "yea" on **HB 771, HB 882, HB 696, HB 285, HB 779, HB 782, HB 595, HB 786,** and **HJR 92**. Agreed.

Representative Marzian moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marzian moved that her vote be changed from "nay" to "yea" on **HB 612**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 539, HB 648**, Representative Sims; **HB 635**, Representative Bratcher.

Announcements

The following meetings were announced:

Long Term Care, Room 111, upon adjournment.

Labor and Industry, 9:00 a.m., Room 125, March 19, 1998.

Transportation, 10:00 a.m., March 19, 1998.

Banking and Insurance: 8:30 a.m., Room 149, March 19, 1998.

Judiciary, Noon, March 19, 1998

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 19, 1998.

On the roll call the vote was **Yeas 68**--J. Adams, R. Adams, Adkins, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brown, Bruce, D. D. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Curd, DeWeese, Ford, Gee, Geveden, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 9**--Bratcher, Cave, Crall, Heleringer, Hoover, Johns, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, MARCH 19, 1998

FORTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Bill Ellis, Kenwood Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative D. Graham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 18, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **SB 18**, by Representative Allen:

On page 1, line 19, after "***the***" by deleting "***certificates***" and inserting "***certificate***" in lieu thereof, and after the second "***of***" by deleting "***temporary or***"; and

On page 1, line 21, after "***in***" by deleting "***paragraphs***" and inserting "***paragraph***" in lieu thereof, and after "***(a)***" by deleting "***and (b)***"; and

On page 1, line 25, after "***to***", by deleting "***dwellings,***" and after "***homes***" by deleting the "***,***"; and

On page 2, lines 1 through 4, by deleting them in their entirety; and

On page 2, line 5, by deleting "***Environmental Protection Cabinet***"; and

On page 2, lines 8 through 10, by deleting them in their entirety; and

On page 2, line 11, by deleting "***(b)***" and inserting "***(a)***" in lieu thereof, and after "***A***" and before "***notice***" by deleting "***final***"; and

On page 2, line 14, by deleting "***(c)***" and inserting "***(b)***" in lieu thereof.

Senate Message

Announcing passage of **SB 95, SB 168, SB 199, SB 287, SB 351, SB 357, SB 361, SB 373, SB 374, SB 390, SB 396, SB 423, SB 430, SB 440, HB 50, HB 126, HB 231, HB 299, HB 396, HB 417, HB 439, HB 477, HB 486, HB 515, HB 548, HB 549, HB 624, HB 656, HB 679,** and **HCR 59**. Message received on **HB 263**: The Senate has receded from Floor Amendment No. 8 to **HB 263** and respectfully returns same to this Honorable Body. Message received on **HB 328**: The Senate has passed **HB 328** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 382**: The Senate has passed **HB 382** with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 388**: The Senate has passed **HB 388** with Senate Floor Amendment Floor Amendment No. 2 and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 410**: The Senate has passed **HB 410** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 438**: The Senate has passed **HB 438** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 453**: The Senate has passed **HB 453** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 564**: The Senate has passed **HB 564** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 632**: The Senate has passed **HB 632** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:15 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 17, HB 100, HB 145, HB 190, HB 205, HB 233, HB 237, HB 258, HB 346, HB 350, HB 351, HB 354, HB 355, HB 358, HB 362, HB 394, HB 451, HB 452, HB 505, HB 514, HB 516, HB 531, HB 645, HCR 8, HCR 12, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 29, HCR 30, HCR 41, HJR 63,** and **HJR 72** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:10 p.m.) **HB 17, HB 100, HB 145, HB 190, HB 205, HB 233, HB 237, HB 258, HB 346, HB 350, HB 351, HB 354, HB 355, HB 358, HB 362, HB 394, HB 451, HB 452, HB 505, HB 514, HB 516, HB 531, HB 645, HCR 8, HCR 12, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 29, HCR 30, HCR 41, HJR 63,** and **HJR 72** delivered to the Senate and signed by the President. Delivered to the Governor on March 19, 1998 at 2:52 p.m.

Representative Lee moved that the rules be suspended to grant floor privileges and to act upon a Resolution. Agreed.

Representative Lee moved the adoption of the following **HR 135**:

HR 135, A RESOLUTION adjourning the House of Representatives in honor of the Elizabethtown Lady Panthers basketball team.

WHEREAS, it seems appropriate for this honorable body to reflect upon the achievements of individuals in the Commonwealth of Kentucky; and

WHEREAS, the Lady Panthers of Elizabethtown High School were the state runners-up during the 1997 Girls High School Basketball Championship; and

WHEREAS, the Lady Panthers of Elizabethtown emerged victorious against the Lady Indians of Montgomery County March 14, 1998, at Mcbrayer Arena in Richmond, Kentucky, thus securing the title of 1998 State Champions; and

WHEREAS, Coach Tim Mudd credits every team member for leadership, hard work, and dedication; and

WHEREAS, Elizabethtown High School's Lady Panthers finished their stellar season with a record of twenty-nine (29) wins and three (3) losses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hails and commends Elizabethtown High School's Lady Panthers for their motivation to achieve, and their athletic excellence.

Section 2. The commitment, perseverance, and standard of achievement Elizabethtown High School's Lady Panther basketball team has demonstrated brings great credit to them and the Commonwealth of Kentucky.

Section 3. The House honors and congratulates the Lady Panthers of Elizabethtown High School for an excellent championship series, and especially for securing the 1998 Basketball State Championship.

Section 4. When the House adjourns this day it does so in deep appreciation of the effort displayed by the Elizabethtown High School Lady Panther basketball team.

Section 5. The clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Elizabethtown High School, 620 North Mulberry Street, Elizabethtown Kentucky, 42701.

There being no objection **HR 135** was adopted.

Introduction of Resolutions

HR 137, by Representative Rader: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul Edward Heironymus.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 360, SCR 131**

Cities: **SB 279**

Education: **SCR 126**

Licensing and Occupations: **SB 392**

Natural Resources and Environment: **SB 364**

Transportation: **SB 226, SB 341, SB 399**

Report of Committees

The Committee on Rules reported that **SB 44, SB 45, SB 126, SB 320, SB 13, SB 120,** and **SB 202** have been posted for passage in the Orders of the Day for March 20, 1998.

The Committee on Banking and Insurance reported **SB 227, SB 337, SB 339, SB 343,** and **SB 353** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 227, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "emergency" means a medical condition, the onset of which is sudden and unexpected, that manifests itself by symptoms of sufficient severity that a health care provider or a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably assume that the condition requires immediate medical treatment, and could expect the absence of medical attention to result in serious impairment to bodily functions or place the person's health in serious jeopardy.

(2) Any health benefit plan shall be required to cover and reimburse expenses for emergency care obtained, without prior authorization, in situations in which a prudent layperson or health care provider could reasonably believe the person's condition required immediate attention at the nearest health care facility.

SB 337, AN ACT relating to franchise plan health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-390 is amended to read as follows:

(1) Health insurance on a franchise plan is that issued to:

(a) Five (5) or more employees of a common employer; or

(b) Ten (10) or more members of any bona fide association or labor union, which association or union was formed and exists for purposes other than that of obtaining insurance, and under which such employees or members, with or without their dependents, are issued individual policies which may vary as to amounts and kinds of coverage as applied for, under an arrangement whereby the premiums on the policies are to be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association, or by some designated employee or officer of the association acting on behalf of the employer or association members.

(2) ***Disability insurance on a franchise plan is that issued for:***

(a) Three (3) or more employees of a common employer; or

(b) Ten (10) or more members of any bona fide association or labor union, which association or union was formed and exists for purposes other than that of obtaining insurance, and under which the employees or members, with or without their dependents, are issued individual policies which may vary as to amounts and kinds of coverage as applied for, under an arrangement whereby the premiums on the policies are to be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association, or by some designated employee or officer of the association acting on behalf of the employer or association members.

(3) The term "employees" includes also the employer's officers, and the employer or partners if the employer is an individual or a partnership.

(4)[~~(3)~~] An insurer may charge different rates, provide different benefits, or employ different underwriting procedure for individuals insured under a franchise plan, if such rates, benefits, or procedures as used do not unfairly discriminate as between individuals insured under franchise plans and individuals otherwise insured under similar policies, taking into consideration the insuring, risk and exposure factors, and expense elements.

SB 339, AN ACT relating to unclaimed property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.060 is amended to read as follows:

The following property held or owing by a banking or financial organization is presumed abandoned:

(1) Any deposit (legal, beneficial, equitable, or otherwise)***, whether*** payable on demand ***or a time deposit, including a deposit that is automatically renewable,*** in any bank or trust company in this state, together with the interest thereon ***and less any deductions permissible under state or federal law including but not limited to dormancy fees and service charges***, unless the owner has within seven (7) years ***or within seven (7) years of the first date of maturity, in the instance of a time deposit***:

- (a) ***Communicated***[~~Negotiated~~] in writing ***or by other means, reflected in a contemporaneous record prepared by or on behalf of the bank or trust company,*** with the bank or trust company concerning it;
- (b) Been credited with interest[~~ on the passbook or certificate of deposit~~] on his request ***or by his action***;
- (c) Had a transfer, disposition of interest, or other transaction noted of record in the books or records of the bank or trust company;[~~ or~~]
- (d) Increased or decreased the amount of the deposit; ***or***
- ***(e) Has not received a regularly mailed statement of account or other notification or communication, mailed by the bank or trust company. Mailings shall be considered not received if returned to the bank or trust company marked undeliverable by the United States Postal Service or other provider of delivery services. A mailing shall be considered regularly mailed if it is of the type sent to all owners of a certain category of deposit and is mailed no less than annually;***

(2) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that with the exception of traveler's checks has been outstanding for more than seven (7) years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks that has been outstanding for more than fifteen (15) years from the date of its issuance unless the owner has within seven (7) years or within fifteen (15) years in the case of traveler's checks corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization;

(3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven (7) years from the date on which the lease or rental period expired.

Section 2. KRS 393.280 is amended to read as follows:

(1) The department, through its employees, may ***at reasonable times and upon reasonable notice*** examine all ***relevant*** records of any person ***except any banking organization or financial organization*** where there is reason to believe that there has been or is a failure to report property that should be reported under this chapter ***during the preceding reporting period. Records shall be considered relevant to the examination of the preceding reporting period if they document the period necessary, for that type of property, to establish presumed abandonment***.

(2) ***The Department of Financial Institutions may at reasonable times and upon reasonable notice examine all relevant records of any banking organization or financial organization if there is reason to believe that there has been or is a failure to report property that should be reported under this chapter during the preceding reporting period.***

(3) Documents and working papers obtained or compiled by the department or the Department of Financial Institutions in the course of conducting an examination are confidential and are not open records under KRS 61.870 to 61.884.

(4) The State Treasurer may promulgate any reasonable and necessary rules for the enforcement of this chapter, and govern hearings held before him. He may delegate in writing to any regular employee of the department authority to perform any of the duties imposed on him by this chapter, except the promulgation of rules.

Section 3. KRS 393.130 is amended to read as follows:

(1) Upon the payment or delivery of abandoned property to the department, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the department under this chapter is relieved of all liability[~~ to the extent of the value of the property so paid or delivered for any claim~~] which then exists or which thereafter may arise or be made in respect to the property.

(2) Any holder of ***property***[~~deposits or any life insurance company~~] who has paid moneys to the department pursuant to this chapter ***may***[~~shall~~] make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the department shall forthwith reimburse the holder or company*, without imposing a fee or other charge. The department may accept a holder's affidavit as sufficient proof of the holder's right to recover money under this section.*

(3) Notwithstanding the provisions of KRS 393.140, posting or advertising is not required in the event payment is made to persons entitled thereto by holders of deposits of life insurance companies in compliance with this section. The claim shall be paid without deduction for the cost of advertising or services provided in KRS 393.115.

(4) Upon payment or delivery of property presumed abandoned, other than money, by a holder to the department in accordance with this chapter, any person appearing entitled thereto shall receive from the department, in addition to proceeds from the liquidation or conversion of the property, any income or gain realized or accruing to the property at or before the liquidation or conversion of the same.

(5) Property that is held in an interest-bearing demand, savings, or time deposit shall, from the time that it is presumed abandoned in accordance with this chapter, be placed by the holder in an interest-bearing account made assignable to the department. The department, through its employees, may examine the records relevant to the establishment and maintenance of an interest bearing account in accordance with KRS 393.280. Upon demand and proper proof by a person appearing entitled to payment of property or portions of property so deposited, the holder may withdraw the property and any accrued interest for payment to the person entitled thereto. Property so deposited and not claimed by a person appearing properly entitled to receipt shall be paid, with accrued interest, to the department ten (10) years after it is presumed abandoned or upon establishment of actual abandonment, whichever occurs first.

(6) Property removed from a safe deposit box or other safekeeping depository is received by the department subject to the holder's right to be reimbursed for the cost of opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid or other charges. The department shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the department in selling the property.

SECTION 4. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date that the property was presumed abandoned and extending to a time that is twenty-four (24) months after the date that the property is paid or delivered to the department. This subsection shall not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim.

(2) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property and that is not in violation of subsection (1) of this section, is enforceable only if:

(a) The agreement is in writing;

(b) The agreement provides that the fee or compensation agreed upon is an amount not more than ten percent (10%) of the value of the property collected;

(c) The agreement clearly sets forth the nature of the property and the services to be rendered;

(d) The agreement is signed by the apparent owner; and

(e) The agreement states the value of the property before and after the fee or other compensation has been deducted.

(3) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.

(4) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than unconscionable compensation.

(5) An advertisement, a written communication, or an agreement concerning the location, delivery, recover, or assistance in the recovery of property reported under this chapter shall contain a provision stating that, by law, any contract provision requiring the payment of a fee for finding property that has been held by the administrator for less than twenty-four (24) months is void and not enforceable, and that fees are limited to an amount not more than ten percent (10%) of the value of the property collected.

Section 5. KRS 393.092 is amended to read as follows:

If specific property which is subject to the provisions of KRS 393.060, 393.064, 393.066,[~~, 393.070~~] and 393.090 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this state and subject to this chapter if:

(1) It may be claimed as abandoned or escheated under the laws of such other state; and

(2) The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or

escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this state by a holder who is subject to the jurisdiction of this state.

Section 6. The following KRS sections are repealed:

393.025 Owner of abandoned property loses income or increments accruing thereafter.

393.070 Deposits not payable on demand -- When presumed abandoned.

SB 343, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.29-171 is amended to read as follows:

(1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society, unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of the portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member. The portion so paid shall not exceed the sum of ***ten thousand dollars ($10,000)***[~~five hundred dollars ($500)~~].

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid as provided, shall be payable to the personal representative of the deceased insured. If the owner of the certificate is other than the insured, the proceeds shall be payable to the owner.

SB 353, AN ACT relating to casualty insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

304.3-245 Closed claim information -- Reporting of information -- Report of commissioner.

The Committee on Labor and Industry reported **HR 134** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 134, A RESOLUTION urging the Interim Joint Committee on Labor and Industry to establish a subcommittee to study the feasibility and implementation of a contractor certification program.

WHEREAS, the construction industry by nature poses dangers and risk to persons employed in the industry, and certain dangers and risks are created or compounded by reported failure of some general and independent contractors to fully comply with the laws of the Commonwealth governing unemployment insurance contributions, income tax withholding, and workers' compensation insurance; and

WHEREAS, failure to file and pay the proper amount of income tax or report all wages paid could result in a significant tax loss for the Commonwealth; and

WHEREAS, the House of Representatives recognizes the importance of determining the feasibility of establishing a contractor certification program to require all general and independent contractors doing business in the Commonwealth to register with Kentucky to ensure compliance with the laws of the state governing unemployment insurance, income tax withholding, and workers' compensation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is urged to request the Interim Joint Committee on Labor and Industry to establish a subcommittee to undertake during the 1998-2000 interim a study of the feasibility and implementation of a contractor certification program for the Commonwealth.

Section 2. The findings and recommendations of the subcommittee shall be presented to the Legislative Research Commission and the Interim Joint Committee on Labor and Industry no later than October 1, 1999. The findings and recommendations may include proposed legislation relating to contractor certification for consideration by the General Assembly in the 2000 Regular Session.

Section 3. The Clerk of the House of Representative is directed to transmit a copy of this resolution to the members of the Legislative Research Commission and the Co-Chairs of the Interim Joint Committee on Labor and Industry.

The Committee on Transportation reported **SB 31, SB 151, SB 395,** and **SJR 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 31, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles twenty-five (25) years old or older, which are used primarily for exhibition in shows, parades, tours, and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. The registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of a fee of fifty dollars ($50) and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) ***Historic vehicles may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the Historic Motor Vehicle plate and the registration receipt are kept in the vehicle at all times.***

(6) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of three dollars ($3).

(7)[~~(6)~~] The secretary of the cabinet may promulgate administrative regulations he deems necessary to further the purpose of this section.

SB 151, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
    - (c) Registry of Election Finance.
- 4. Department of Law.
    - (a) Attorney General.
- 5. Department of the Treasury.

(a) Treasurer.
6. Department of Agriculture.
  (a) Commissioner of Agriculture.
  (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
  (a) Department of State Police.
  (b) Department of Criminal Justice Training.
  (c) Department of Corrections.
  (d) Department of Juvenile Justice.
  (e) Office of the Secretary.
  (f) Offices of the Deputy Secretaries.
  (g) Office of General Counsel.
  (h) Medical Examiner Program.
  (i) Parole Board.
  (j) Kentucky State Corrections Commission.
  (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
  (a) Department of Education.
    (1) Kentucky Board of Education.
    (2) Education Professional Standards Board.
  (b) Department for Libraries and Archives.
  (c) Kentucky Arts Council.
  (d) Kentucky Educational Television.
  (e) Kentucky Historical Society.
  (f) Kentucky Teachers' Retirement System Board of Trustees.
  (g) Kentucky Center for the Arts.
  (h) Kentucky Craft Marketing Program.
  (i) Kentucky Commission on the Deaf and Hard of Hearing.
  (j) Governor's Scholars Program.
  (k) Governor's School for the Arts.
  (l) Office of Development.
  (m) Kentucky Heritage Council.
  (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
  (a) Environmental Quality Commission.
  (b) Kentucky Nature Preserves Commission.
  (c) Department for Environmental Protection.
  (d) Department for Natural Resources.
  (e) Department for Surface Mining Reclamation and Enforcement.
  (f) Office of Legal Services.
  (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
  (a) Department of Highways.

(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f)[~~ Office of Aeronautics.~~
~~(g)~~] Office of General Counsel.
(g)[~~(h)~~] Office of Public ***Affairs***[~~Relations~~].
(h)[~~(i)~~] Office of Personnel Management.
(i)[~~(j)~~] Office of Minority Affairs.
(j)[~~(k)~~] Office of Environmental Affairs.
(k) Office of Policy and Budget.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.

(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of Film Promotion.

(h) Office of General Counsel.

12. Cabinet for Workforce Development:

(a) Department for Adult Education and Literacy.

(b) Department for Technical Education.

(c) Department of Vocational Rehabilitation.

(d) Department for the Blind.

(e) Department for Employment Services.

(f) State Board for Adult and Technical Education.

(g) Governor's Council on Vocational Education.

(h) The State Board for Proprietary Education.

(i) The Foundation for Adult Education.

(j) The Kentucky Job Training Coordinating Council.

(k) Office of General Counsel.

(l) Office of Communication Services.

(m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.

(o) Office for Administrative Services.

(p) Office for Policy, Budget, and Personnel.

(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Postsecondary Education.

(a) Kentucky Community Service Commission.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

7. Department of Veterans' Affairs.

8. Kentucky Commission on Military Affairs.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet in addition to the departments set forth in KRS 174.015 shall consist of the following organizational units:

(a) Office of the Secretary of Transportation comprised of the secretary of transportation, ***a deputy secretary for administration***[~~chief deputy secretary (who shall also serve as commissioner of the Department of Highways)~~], a deputy secretary for legal affairs, and the Office of Environmental Affairs created by paragraph ***(h)***[~~(i)~~] of this subsection;

(b) Railroad Commission, attached to the Office of the Secretary for administrative purposes;

(c) Office of Public ***Affairs***[~~Relations~~], headed by an executive director who shall serve as ***media spokesperson***[~~press secretary~~] and shall be responsible for ***all matters relating to*** public relations and information;

(d) Office of General Counsel***,*** headed by an executive director ***responsible for general office administration, and the general counsel who provides***[~~, which shall provide~~] legal services for the cabinet;

(e) Office of Personnel Management, headed by an executive director who shall be responsible for the implementation of programs and practices for the recruitment,[~~ training,~~] utilization, and management of cabinet personnel;

(f) Office of Minority Affairs, headed by an executive director who shall be responsible for the development and implementation of programs and procedures for assisting minorities in employment and contractual relations with the cabinet;

(g)[~~Office of Aeronautics, headed by an executive director who shall be responsible for the administration of the Commonwealth's airport planning and development programs;~~

~~(h)~~] Kentucky Airport Zoning Commission established by KRS 183.861, which shall be attached to the ***Division***[~~Office~~] of Aeronautics;[~~ and~~]

(h)[~~(i)~~] Office of Environmental Affairs, headed by an executive director who shall oversee[~~ and implement~~] all Transportation Cabinet environmental issues, activities, ***and programs; developing and implementing*** policies***;***[~~,~~] and ***procedures. The position of executive director is a policy-making position under the provisions of KRS 18A.175***[~~programs~~]. The Office of Environmental Affairs may direct the Transportation Cabinet's environmental activities, associated personnel, and facilities when necessary to assure compliance with environmental laws and regulations***; and***

(i) Office of Policy and Budget, headed by an executive director who shall be responsible for administering the budget functions of the Transportation Cabinet.

(2) The executive directors of the Offices of Public ***Affairs***[~~Relations~~], General Counsel, Personnel Management, Minority Affairs,[~~ Aeronautics, and~~] Environmental Affairs***, and Policy and Budget*** shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050. ***The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions pursuant to KRS 18A.175.***

Section 3. Executive Order 96-916, dated July 15, 1996, reorganizing the Transportation Cabinet is hereby confirmed and modified to the extent that it is not otherwise confirmed by this Act. The confirmation shall include, without being limited to, the creation of the following offices within the Department of Highways:

(1) Office of Intermodal Planning, headed by an executive director who shall be a registered engineer pursuant to KRS Chapter 322 and who shall be responsible for advising the secretary on transportation policies and directions for long-range Transportation Cabinet planning regarding all forms of transportation including highways, water, air, rail, and pipeline modes. The Office shall also be responsible for all transportation planning functions including the development and processing of the federal aid highway program, as well as regional and local transportation planning activities;

(2) Office of Project Development, headed by an executive director who shall be a registered professional engineer pursuant to KRS Chapter 322 known as the Deputy State Highway Engineer for Project Development. The executive director shall be responsible for formulating and implementing all pre-construction phases of highway projects in the Division of Professional Services, Division of Bridge Design, Division of Highway Design, Division of Environmental Analysis, and the Division of Right of Way and Utilities; and

(3) Office of Construction/Operations, headed by an executive director who shall be a registered professional engineer pursuant to KRS Chapter 322 known as the Deputy State Highway Engineer for Construction/Operations. The executive director shall be responsible for formulating and implementing all maintenance, traffic control, and equipment utilization for the state highway system in the Division of Construction, Division of Materials, Division of Contract Procurement, Division of Traffic, Division of Equipment, and the Division of Operations.

SB 395, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within fifteen (15) days. The bill of sale or assigned title must be in the motor vehicle during this fifteen (15) day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle;

(b) The owner's registration receipt, if the motor vehicle was last registered in this state;

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of that state does not require the owner of a motor vehicle to obtain a certificate of title or ownership;

(d) A certificate of title, if last registered in another state where the law of that state requires the owner of a motor vehicle to obtain a certificate of title or ownership;

(e) An affidavit from an officer of a local government saying that the motor vehicle has been abandoned and that the provisions of KRS 82.630 have been complied with, for local governments which elect to use the provisions of KRS 82.600 to 82.640; and

(f) The application from a person who has brought a motor vehicle into the Commonwealth from another state shall be accompanied by proof that the motor vehicle is insured in compliance with KRS 304.39-080.

(2) After that, the owner of any motor vehicle registered under KRS 186.050(1) or (2) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating the motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) to (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating a commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the Transportation Cabinet copy of the certificate of title or registration and sent to the Transportation Cabinet by the clerk.

(5) At least ***forty-five (45)***~~[thirty (30)]~~ days prior to the expiration of registration of any motor vehicle previously registered in the Commonwealth as provided by KRS 186A.035, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. In addition, the department shall provide appropriate forms and information to permit renewal of motor vehicle registration to be completed by mail. Any registration renewal by mail shall require payment of an additional two dollar ($2) fee which shall be received by the county clerk. Nonreceipt of the notice herein shall not constitute a defense to any registration related offense.

Section 2. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles, including motorcycles, with a gross vehicular weight of six thousand (6,000) pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section. In addition, if a motor vehicle is jointly owned by a husband and wife, the ownership shall exist as a joint tenancy with right of survivorship, unless the registration expressly states to the contrary and gives an alternative specific status. Upon the death of one (1) of the spouses, the jointly-owned vehicle shall transfer to the surviving spouse free from payment of any state-required transferral fees.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless canceled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for. Upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration. Any transaction relating to registration or registration renewal which would cause an unexpired Kentucky motor vehicle license plate to be surrendered shall have that unexpired fee prorated or credited against any additional fee required by a subsequent registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of two dollars ($2) for each registration, or if the registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(5) At least forty-five (45) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration.~~[Any registration renewal or vehicle transfer notice by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk.]~~ Nonreceipt of the notice required by this subsection shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the Department of Vehicle Regulation.

Section 3. KRS 186A.105 is amended to read as follows:

(1) Motor vehicle dealers, their agents and county clerks, before equipping a vehicle with a temporary tag, shall print or stamp in waterproof ink, legibly, in the spaces provided on such tag:

(a) The month, day and year the vehicle was delivered to the purchaser;

(b) The month, day and year of expiration of the tag which shall be no more than ***thirty (30)***[~~fifteen (15)~~] days following the date of delivery of the vehicle to the purchaser;

(c) The purchaser's or owner's name;

(d) The year model, make and vehicle identification number of the vehicle sold; and

(e) Either the dealer's name, city of principal place of business and the telephone number, including telephone area code, or the clerk's name, county and telephone number, including area code.

(2) The dealer's employee who executes the temporary tag shall place his signature in the space provided. A dealer who issues, or whose agents issue, temporary tags shall keep a log of each temporary tag obtained and each[~~ such~~] tag issued, showing all information entered by the dealer or dealer's agent on forms supplied by the cabinet, and shall make such log available for inspection by any law enforcement officer upon request. ***The***[~~Such~~] log shall be retained by the dealer for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

(3) The county clerk who executes the temporary tag shall place his signature in the space provided. A county clerk who issues temporary tags shall keep a log of each temporary tag obtained and each tag issued, showing all information entered by the county clerk on forms supplied by the cabinet, and shall make the log available for inspection by any law enforcement officer upon request. The log shall be retained by the county clerk for a period of at least two (2) years following the date of issuance of the last dated tags whose issuance is indicated on any individual temporary tag log sheet.

Section 4. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.[~~ The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.~~]

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Human Resources that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, or payments on the child support arrearage are being made in accordance with a court or administrative order. Before the license may be reinstated, proof of elimination of the child support arrearage from the Cabinet for Human Resources shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Human Resources and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 5. The following KRS section is repealed:

186.276 Seat tax on airport shuttle vehicles.

SJR 87, A JOINT RESOLUTION naming part of KY 1524 in Clay County in honor of Governor A. B. "Happy" Chandler.

WHEREAS, A. B. "Happy" Chandler achieved substantial improvements in schools, highways, and health and welfare programs during his two terms as Governor of the Commonwealth of Kentucky; and

WHEREAS, during his second term as Governor A. B. "Happy" Chandler was instrumental in the completion of Kentucky Highway 1524 in Clay County, Kentucky; and

WHEREAS, the citizens of Clay County, Kentucky, and specifically T. C. Sizemore, desire to honor A. B. "Happy" Chandler by requesting that part of KY 1524 be named the "Happy Chandler Highway"; and

WHEREAS, on the 14th day of August, 1997, the desire was approved by the Fiscal Court of Clay County, Kentucky after having held a public comment hearing;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name a segment of KY 1524 the "Happy Chandler Highway." The segment begins at the junction of KY 1524 at KY 66 (mpt 16.462) and follows KY 1524 for a distance of 3.4 miles to the Mill

Creek Road intersection in Clay County, Kentucky.

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs to facilitate their erection at the beginning and end points of the segment upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Fiscal Court of Clay County, 316 Main Street, Suite 143, Manchester, Kentucky 40962.

The Committee on Agriculture and Small Business reported **SB 304** and **SB 307** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 304, AN ACT relating to dairy compacts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

STATEMENT OF PURPOSE, FINDINGS, AND DECLARATION OF POLICY

Section 1. Statement of purpose, findings, and declaration of policy.

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential, and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

By entering into this compact, the participating states affirm that their ability to regulate the price that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The system of federal orders, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the system of federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the system of federal orders be discontinued. In that event, the interstate commission may regulate the marketplace in lieu of the system of federal orders. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the system of federal orders.

ARTICLE II

DEFINITIONS AND RULES OF CONSTRUCTION

Section 2. Definitions.

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subsection (b) of Section 3 of this compact.

(2) "Commission" means the Southern Dairy Compact Commission established by this compact.

(3) "Commission marketing order" means regulations adopted by the Commission pursuant to Sections 9 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.

(4) "Compact" means this interstate compact.

(5) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to Sections 9 and 10 of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(6) "Milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(9) "Pool plant" means any milk plant located in a regulated area.

(10) "Region" means the territorial limits of the states which are parties to this compact.

(11) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) "State dairy regulation" means any state regulation of dairy prices and associated assessments, whether by statute, marketing order, or otherwise.

Section 3. Rules of construction.

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in Section 1 of this compact. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation, and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined in this compact, but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III

COMMISSION ESTABLISHED

Section 4. Commission established.

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three (3) nor more than five (5) persons. Each delegation shall include at least one (1) dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one (1) consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three (3) consecutive terms with no single term of more than four (4) years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

Section 5. Voting requirements.

All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment, or rescission of the commission's bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one (1) vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds (2/3) vote of the delegations present. The establishment of a regulated area that covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

Section 6. Administration and management.

(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and, together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its bylaws an executive committee composed of one (1) member elected by each delegation.

(b) The commission shall adopt bylaws for the conduct of its business by a two-thirds (2/3) vote and shall have the power by the same vote to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission may engage in all of the following:

(1) Sue and be sued in any state or federal court.

(2) Have a seal and alter the same at pleasure.

(3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes.

(4) Borrow money and issue notes, provide for the rights of the holders thereof, and pledge the revenue of the commission as security therefor, subject to the provisions of Section 18 of this compact.

(5) Appoint such officers, agents, and employees as it may deem necessary, and prescribe their powers, duties, and qualifications.

(6) Create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees.

(7) Retain personal services on a contract basis.

Section 7. Rule-making power.

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV

POWERS OF THE COMMISSION

Section 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The commission may:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, and to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling, and for all other services, performed with respect to milk.

(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

Section 9. Equitable farm prices.

(a) The powers granted in this section and Section 10 of this compact shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article authorizes the commission to establish one (1) or more commission marketing orders, as provided in this compact, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents ($1.50) per gallon at Atlanta, Georgia; however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar and fifty cents ($1.50) per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission also may establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession, or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

Section 10. Optional provisions for pricing order.

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be

made for location adjustments, zone differentials, and competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

a. With respect to regulations establishing a compact over-order price, the commission may establish one (1) equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

b. With respect to any commission marketing order, as defined in Section 2, subdivision (3), of this compact, which replaces one (1) or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to subsection (a) of Section 18 of Article VII of this compact.

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V

RULE-MAKING PROCEDURE

Section 11. Rule-making procedure.

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9 of this compact, or amendment thereof, as provided in Article IV of this compact, the commission shall conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views. Such rule-making proceeding shall be governed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. sec. 553). In addition, the commission shall, to the extent practicable, publish notice of rule-making proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rule-making proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

Section 12. Findings and referendum.

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. sec. 553 (c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV of this compact.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in

Section 13 of this compact.

Section 13. Producer referendum.

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9 of this compact, is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds (2/3) of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) of this subsection and subject to the provisions of subdivisions (2) through (5) of this subsection.

(1) No cooperative that has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative that is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to ensure that all milk producers are informed regarding a proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his or her approval or disapproval with the commission either directly or through his or her cooperative.

Section 14. Termination of over-order price or marketing order.

(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk, the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rule making prescribed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. sec. 553).

ARTICLE VI

ENFORCEMENT

Section 15. Records, reports, access to premises.

(a) The commission may by rule and regulation prescribe recordkeeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission may examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be

necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may adopt rules further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, that is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars ($1,000) or to imprisonment for not more than one (1) year, or both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

Section 16. Subpoena, hearings, and judicial review.

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty (30) days from the date of the entry of the ruling. Service of process in these proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (i) to make such ruling as the court shall determine to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to Section 17 of this compact. Any proceedings brought pursuant to Section 17 of this compact, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

Section 17. Enforcement with respect to handlers.

(a) Any violation by a handler of the provisions of regulation establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order, or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission in any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII

FINANCE

Section 18. Finance of start-up and regular costs.

(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under Section 6, subdivision (d), paragraph 4 of this compact. In order to finance the cost of administration and enforcement of this compact, including payback of start-up costs, the commission may collect an assessment from each handler who purchases

milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one (1) year from the date the commission convenes, in an amount not to exceed $0.015 per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two (2) month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it shall be its sole responsibility, and no participating state or the United States shall be liable therefor.

Section 19. Audit and accounts.

(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII

ENTRY INTO FORCE; ADDITIONAL MEMBERS; AND WITHDRAWAL

Section 20. Entry into force; additional members.

The compact shall enter into force effective when enacted into law by any three (3) states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and when the consent of Congress has been obtained.

Section 21. Withdrawal from compact.

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after notice in writing of the withdrawal is given to the commission and the governors of all the participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

Section 22. Severability.

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three (3) or more compacting states. A compact state may accept the conditions of Congress by implementation of this compact.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The delegation from the Commonwealth of Kentucky to the Southern Dairy Compact Commission, as established in Article III of the compact, set out in Section 1 of this Act shall be composed of five (5) members appointed by the commissioner of agriculture as follows:

(a) Two (2) members shall represent the Commonwealth at large;

(b) One (1) member shall be a dairy farmer engaged in the production of milk at the time of appointment or reappointment;

(c) One (1) member shall represent consumers of milk; and

(d) One (1) member shall represent fluid milk processors.

(2) Members must be registered to vote in the state.

(3) Members shall serve a term of four (4) years and may be reappointed, but no member shall serve more than three (3) consecutive terms. Members shall serve until their successors are duly appointed. Any appointment to fill an unexpired term shall be for the balance of the unexpired term and shall be made by the appropriate appointing authority. A member may be removed by the appointing authority for cause. The Commissioner of Agriculture shall designate one (1) member of the delegation to serve as chair, at the pleasure of the Commissioner.

(4) Members of the delegation shall receive one hundred dollars ($100) per diem while performing official duties for the commission.

(5) A majority of the delegation shall constitute a quorum for the transaction of business.

(6) All clerical and other services required by the delegation shall be provided by the Commissioner of Agriculture.

Section 3. KRS 260.990 is amended to read as follows:

(1) Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars ($10), nor more than twenty-five dollars ($25), for the second offense, he shall be fined not less than twenty-five dollars ($25), nor more than fifty dollars ($50), and for the third and each subsequent offense, he shall be fined not less than fifty dollars ($50), nor more than two hundred dollars ($200). Whenever a violation is with respect to a lot or shipment consisting of fifty (50) or more closed packages, there may be imposed in addition to the above penalties twenty-five cents ($0.25) for the first offense, fifty cents ($0.50) for the second offense and one dollar ($1) for each subsequent offense for each package in excess of fifty (50) with respect to which the violation is committed.

(2) Any person who violates any of the provisions of KRS 260.130 to 260.160 shall, for the first offense, be fined not more than twenty-five dollars ($25); for the second offense, he shall be fined not more than fifty dollars ($50), and for the third and each succeeding offense he shall be fined not more than one hundred dollars ($100).

(3) Any person who violates any of the provisions of the egg marketing law shall be fined an amount not exceeding one hundred dollars ($100) for each offense. In a violation involving sales without a required license, each day of business operation shall constitute a separate offense.

(4) Any handler who violates a regulation adopted by the Southern Dairy Compact Commission established in Article III of the Southern Dairy Compact set out in Section 1 of this Act shall be subject to a penalty of up to five thousand dollars ($5,000) per day. Each day of violation shall constitute a separate offense.

Section 4. This Act becomes effective at such time as three states of the group of states given in Section 20 of the Southern Dairy Compact set out in Section 1 of this Act enact that compact into law, substantially in the form given in this Act, and when the consent of the Congress has been obtained to that compact.

SB 307, AN ACT relating to tobacco sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) No person shall sell or cause to be sold at retail cigarettes packaged in units of fewer than twenty (20) cigarettes.

(2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available to a retail establishment cigarettes packaged for retail sale in units of less than twenty (20) cigarettes.

(3) Any person violating subsection (1) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Any person violating subsection (2) of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500). These penalties shall be enforced by the department through civil enforcement procedures.

The Committee on Judiciary reported **SB 58, SB 61,** and **SB 121** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 58, AN ACT relating to protection of and counseling for child victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.600 is amended to read as follows:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Human Resources. ***Cabinet for Human Resources social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse.*** Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.

(2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of

contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.

(3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys and the Cabinet for Human Resources ***and other team members*** shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.

(7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

SB 61, AN ACT relating to judicial supervision of custody decree or agreement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.330 is amended to read as follows:

(1) Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including his education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or his emotional development significantly impaired.

(2) If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical health would be endangered or his emotional development significantly impaired, the court may order the local probation***, another appropriate local entity,*** or ***if currently involved in the case, the child*** welfare department to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out.

SB 121, AN ACT relating to abortion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death.

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216.

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for human resources.

(4) "Cabinet" shall mean the Cabinet for Human Resources of the Commonwealth of Kentucky.

(5) "Fetus" shall mean a human being from fertilization until birth.

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death.

(7) ***"Partial-birth abortion" shall mean an abortion in which the physician performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.***

(8) "Vaginally delivers a living fetus before killing the fetus" shall mean deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

(9) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter.

(10)[~~(8)~~] "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother.

(11)[~~(9)~~] "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

SECTION 2. A NEW SECTION OF KRS 311.710 TO 311.830 IS CREATED TO READ AS FOLLOWS:

No physician shall perform a partial-birth abortion.

Section 3. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or reregistration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;

(3) Committed, procured, or aided in the procurement of an unlawful abortion***, including a partial-birth abortion***;

(4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under the laws;

(5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;

(6) Become addicted to a controlled substance;

(7) Become a chronic or persistent alcoholic;

(8) Developed a physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public;

(9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;

(10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;

(11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;

(12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including, but not limited to, the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;

(13) Violated any agreed order, letter of agreement, order of suspension, or the terms or conditions of any order of probation, issued by the board;

(14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

(15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;

(16) Willfully violated a confidential communication;

(17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;

(18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;

(19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or association in accordance

with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;

(20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; or

(21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action.

Section 4. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Human Resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) ***(a) 1. Any physician who performs a partial-birth abortion in violation of Section 2 of this Act shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.***

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician

from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(13)[~~(12)~~] Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(14)[~~(13)~~] Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(15)[~~(14)~~] Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(16)[~~(15)~~] Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(17)[~~(16)~~] Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(18)[~~(17)~~] Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(19)[~~(18)~~] A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(20)[~~(19)~~] Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(21)[~~(20)~~] Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(22)[~~(21)~~] Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(23)[~~(22)~~] Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(24)[~~(23)~~] Any person who violates KRS 311.914 shall be guilty of a violation.

(25)[~~(24)~~] Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(26)[~~(25)~~] (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(27)[~~(26)~~] A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(28)[~~(27)~~] Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(29)[~~(28)~~] Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(30)[~~(29)~~] Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(31)[~~(30)~~] Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(32)[~~(31)~~] Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Calendar

SB 133, SB 147, SB 160, SB 163, SB 186, SB 230, SB 242, SB 257, SB 277, SB 295, SB 309, SB 332, SB 123, SB 326, SB 288, SB 205, HB 878, SB 34, SB 261, SB 355, and **SB 380** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 339**, by Representative Long:

On page 2, line 19 after "employees,", by inserting "***or through any other person under contract with the department to conduct the examination on behalf of the department,***"; and

On page 4, line 14, by deleting "***KRS 393.280***" and inserting in lieu thereof "***Section 2 of this Act***"; and

On page 6, after line 20, but before line 21, by inserting the following:

"Section 6. KRS 393.110 is amended to read as follows:

(1) ***A holder of property presumed abandoned shall make an annual report to the department concerning the property. The report shall be filed on or before November 1 of each year and shall cover the twelve (12) months ending on July 1 of that year. All property so reported shall be turned over by November 1 to the department. The report shall be verified and*** [~~Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the department with respect to the property annually as of July 1. The report shall be filed in the office of the department on or before August 1 of each year for the preceding July 1. The report~~] shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of one hundred dollars ($100) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the department prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days this copy on the courthouse door or the courthouse bulletin board, and also to publish the copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of one hundred dollars ($100) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the department the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and the posting and publishing shall be constructive notice to all interested parties.

(2) ***The holder of property presumed abandoned shall send written notice by certified mail, return receipt requested, to the apparent owner, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section*** [~~Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the department shall mail notice to each person having an address listed in the report who appears to be entitled to property presumed abandoned under this chapter; except the department shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is one hundred dollars ($100) or less~~]. The notice shall contain:

(a) A statement that according to a report filed with the department properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, by ***November 1*** [~~January 1~~] of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or

circumstance which has a substantial tendency to rebut the presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding the property shall be under no duty while the action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of the action.

(4) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all the property within the jurisdiction of the court in which the action is brought if the property of different persons is set out in separate paragraphs.

Section 7. KRS 393.140 is amended to read as follows:

(1) Any person claiming an interest in any property paid or surrendered to the state in accordance with KRS 393.020 to 393.050 who was not actually served with notice, and who did not appear, and whose claim was not considered during the action or at the proceedings that resulted in its payment to the state, may, within five (5) years after the judgment, file his claim to the property with the department.

(2) Any person claiming an interest in any estate or property paid or surrendered to the state in accordance with KRS 393.060 to 393.120, that was not subsequently adjudged under the procedure set out in KRS 393.230 to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee, or other person entitled under the laws of this state relating to wills, descent, and distribution to take the legal or equitable title, may file his claim to it at any time after it was paid to this state.

[~~(3) Any claimant that is an heir or a relative to the original owner shall, within fifteen (15) days after filing any claim permitted under this section in excess of one hundred dollars ($100), publish notice of the claim pursuant to KRS Chapter 424 in the county in which the property was held before being transferred to the state. If the claim is for one hundred dollars ($100) or less, the claimant shall post at the courthouse door and three (3) other conspicuous places in that county, and shall file proof of publication or posted notice with the department. No claim shall be allowed until fifteen (15) days after proof of the notice is received by the department.~~]

SECTION 8. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

A holder may deduct from property presumed abandoned a charge imposed by reason of the owner's failure to claim the property within a specified time, only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise canceled. The amount of the deduction is limited to an amount that is not unconscionable.

SECTION 9. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the department, within three (3) years of the receipt of abandoned property, may sell it to the highest bidder at a public sale at a location in the state which, in the judgment of the department, affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department need not offer the property for sale if the department considers that the probable cost of sale will exceed the proceeds of the sale. At least three (3) weeks prior to a sale conducted under this section, the department shall publish a notice of the sale in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the department. If securities are sold by the department before the expiration of three (3) years after their delivery to the department, a person making a claim under this chapter before the end of the three (3) year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this chapter after the expiration of the three (3) year period is entitled to receive the securities delivered to the department by the holder, if they still remain in the custody of the department, or the net proceeds received from the sale, and is not entitled to receive any appreciation in the value of the property occurring after the delivery to the department, except in the case of intentional misconduct or malfeasance by the department.

(3) A purchaser of property at a sale conducted by the department pursuant to this chapter takes property free of all claims of the owner or previous holder and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

SECTION 10. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) A holder who fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the department interest at two (2) percentage points above the annual rate of discount for the most recent issue of fifty-

two (52) week United States Treasury bills in effect on the date the property should have been paid or delivered, on the value of the property from the date the property should have been reported, paid, or delivered.

(2) Except as otherwise provided in subsection (3) of this section, a holder who fails to report, pay, or deliver property within the time prescribed by this chapter, or fails to perform other duties imposed by this chapter, shall pay to the department, in addition to the interest as provided in subsection (1) of this section, a civil penalty in the amount of two hundred dollars ($200) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of five thousand dollars ($5,000).

(3) A holder who willfully fails to report, pay, or deliver property within the time prescribed by this chapter, or willfully fails to perform other duties imposed by this chapter shall pay to the department, in addition to the interest as provided in subsection (1) of this section, a civil penalty of one thousand dollars ($1,000) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been reported but was not.

(4) A holder who makes a fraudulent report shall pay to the department, in addition to interest as provided in subsection (1) of this section, a civil penalty of one thousand dollars ($1,000) for each day from the date a report required by this chapter was due, up to a maximum of twenty-five thousand dollars ($25,000), plus twenty-five percent (25%) of the value of any property that should have been reported but was not.

(5) The department for good cause may waive, in whole or in part, interest, under subsection (1) of this section, and penalties under subsections (2) and (3) of this section, and shall waive penalties if the holder acted in good faith and without negligence."; and

On page 6, line 21, by deleting "6" and inserting in lieu thereof "11".

Floor Amendment No. 1 to the House Committee Substitute to **SJR 76**, by Representative Zimmerman:

On page 2, line 3, after the word "of" delete "KY 231" and insert "US 231".

Orders of the Day

SB 182 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 182** be passed.

On the roll call the vote was: Yeas 82, Nays 0 (See March 19, 1998 roll call on **SB 182** - Appendix.) **SB 182** was passed and the title agreed to. Representative Gray moved that the vote by which **SB 182** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 167, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the House Committee Substitute to **SB 167**. Agreed.

Representative Collins moved that **SB 167**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 68, Nays 9 (See March 19, 1998 roll call on **SB 167** - Appendix.) **SB 167**, by way of House Committee Substitute, was passed and the title agreed to. Representative Collins moved that the vote by which **SB 167**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 103, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the House Committee Substitute to **SB 103**. Agreed.

Representative A. Arnold moved that **SB 103**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 1 (See March 19, 1998 roll call on **SB 103** - Appendix.) **SB 103**, by way of House Committee Substitute, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 103**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SCR 88, SB 142, SB 141, SB 139, SB 105, SB 101, SB 85,** and **SB 5**, have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:35 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 18**, by Representative Wilkey:

On page 4, after line 3, by inserting:

"Section 3. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350; and

(d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(e) It is the intent of the General Assembly that the disposal of sludge by landfarming or composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge, treat the disposal of sludge by landfarming or composting as an industrial process.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

(3) For the disposal of wastewater treatment sludge or other special waste, a permit application to establish, operate, or modify a landfarming or composting site or facility shall require immediately the general public notice provided for in subsections (4) and (5) of KRS 224.40-310. If a hearing is requested, no permit to establish, operate, or modify a landfarming or composting site or facility shall be issued prior to a final order of the secretary. The hearing shall be held within the county where the landfarming or composting site or facility is located or proposed. Landfarming or composting shall be considered an industrial process."

Orders of the Day (Continued)

SB 114, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the House Committee Substitute to **SB 114**. Agreed.

Representative L. Clark moved that **SB 114**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 19, 1998 roll call on **SB 114** - Appendix.) **SB 114**, by way of

House Committee Substitute, was passed and the title agreed to. Representative L. Clark moved that the vote by which **SB 114**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **SB 136** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 19, 1998 roll call on **SB 136** - Appendix.) **SB 136** was passed and the title agreed to. Representative Brown moved that the vote by which **SB 136** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 264 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 264** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 19, 1998 roll call on **SB 264** - Appendix.) **SB 264** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 264** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 42 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **SB 42** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 19, 1998 roll call on **SB 42** - Appendix.) **SB 42** was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 42** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 259, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **SB 259**. Agreed.

Representative Long moved that **SB 259**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 19, 1998 roll call on **SB 259** - Appendix.) **SB 259**, as amended, was passed and the title agreed to. Representative Long moved that the vote by which **SB 259**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 328**, by Representative Mason:

On page 6, line 18, By inserting the word "***provide for***" after the word "shall";

And also on page 6, line 18, By inserting an opening bracket "[" preceding the words "seek a federal Medicaid waiver to permit" and by inserting strike-throughs therein;

And also on page 6, line 19, By inserting a closing bracket "]" after the word "cost-based" and by inserting strike-throughs therein.

Floor Amendment No. 2 to **SB 328**, by Representative Mason:

On page 4, line 22, By deleting the word "***without***" and inserting in lieu thereof the word "***upon***".

Floor Amendment No. 3 to **SB 328**, by Representative Mason:

On page 4, line 7, after "***Chapter 216B***" by inserting the following, "***and for which certificate of need approval shall be required***"; and

On page 4, line 7, after "***Chapter 216B***" by deleting the brackets and strikethroughs on the language to the end of line 7 through line 11.

Orders of the Day (Continued)

SB 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 75** be passed.

On the roll call the vote was: Yeas 87, Nays 2 (See March 19 , 1998 roll call on **SB 75** - Appendix.) **SB 75** was passed and the title agreed to. Representative Long moved that the vote by which **SB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 76, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hogancamp moved the adoption of Floor Amendment No. 1 to **SB 76**. Agreed.

Representative Ballard moved that **SB 76**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 16 (See March 19, 1998 roll call on **SB 76** - Appendix.) **SB 76**, as amended, was passed and the title agreed to. Representative Ballard moved that the vote by which **SB 76**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 253 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **SB 253** be passed.

On the roll call the vote was: Yeas 83, Nays 4 (See March 19, 1998 roll call on **SB 253** - Appendix.) **SB 253** was passed and the title agreed to. Representative DeWeese moved that the vote by which **SB 253** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 211 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 211** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 19, 1998 roll call on **SB 211** - Appendix.) **SB 211** was passed and the title agreed to. Representative Collins moved that the vote by which **SB 211** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 138, by Representative Scott: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cleo Chadwell.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Natural Resources and Environment: **HR 133**

Education: **SB 11, SB 265**

Judiciary: **SB 217**

Motions, Petitions and Communications (Continued)

Representative Yonts moved the adoption of the following **Legislative Citation No. 177**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Muhlenberg South High School for the exemplary effort put forth in promoting the educational success of the students of Muhlenberg County. Inasmuch as the development of high caliber citizens who are prepared to meet the challenges of tomorrow is indeed noteworthy, this fine institution is applauded for its role in forming the future leaders of this great Commonwealth. The members of this distinguished body are pleased to join Representative Brent Yonts in graciously welcoming the students of Muhlenberg South High School to today's session of the Kentucky House of Representatives. **Legislative Citation No. 177** was adopted without objection.

Representative McKee moved the adoption of the following **Legislative Citation No. 178**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory of Harold Ruby Arnold. The House of Representatives joins Representative Thomas McKee in expressing its deepest sympathy to all who share in the great loss on the passing of this extraordinary gentleman. Beloved son of the late O. W. and Anna Veach Arnold, Mr. Arnold was preceded in death by a wife, Eula Dearborn Arnold, and a brother, Shirley W. Arnold. He is survived by his devoted wife, Mildred Auchter Arnold; an adoring daughter, Janet Arnold Johnson; two loving sisters, Mrs. Virginia Hill and Mrs. Joanna Henson; and five doting grandchildren. Born in Harrison County on March 17, 1918, Mr. Arnold contributed greatly to his community, serving diligently as a Harrison County Magistrate, District 2, for fifteen years. During this time, he also served on the Flora Shropshire Animal Shelter committee, the country farm committee and the Cox Scholarship committee. He was a faithful member of the Central Christian Church, where he served as a deacon, St. Andrews Masonic Lodge, Thomas Ware Masonic Lodge, Cynthiana Lions Club and Cynthiana Elks Lodge. The Kentucky House of Representatives is honored on this day to pay tribute to the memory of Harold Ruby Arnold and to express our deepest condolences to his family and friends. **Legislative Citation No. 178** was adopted without objection.

Representative P. Clark moved that the rules be suspended to withdraw Floor Amendment No. 1 to **SB 320**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the House Committee Substitute to **SB 13**, by Representative Thomas:

On page 16, after line 23, by adding the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 70.260 to 70.273 IS CREATED TO READ AS FOLLOWS:

(1) When a county creates a deputy sheriff merit board, the board shall issue, and publish within forty-eight (48) hours after their adoption, rules that are not inconsistent with the provisions of KRS 70.260 to 70.273. The board shall provide a certified copy of the rules to:

(a) The sheriff of the county who shall additionally post a copy in a conspicuous place in the main office and in any branch offices where deputies are regularly assigned to work from;

(b) The county judge/executive of the county; and

(c) The legislative body of the county.

(2) The board shall, at a minimum, adopt a body of rules that addresses the following subjects:

(a) For deputy sheriffs:

1. Qualifications for initial and continued employment, which shall at a minimum include: citizenship, age, physical, mental, and educational requirements;

2. Grounds for temporary appointments;

3. Advancement requirements. Deputy sheriffs shall be employed for at least three (3) full years before being eligible for the rank of sergeant;

4. Factors that shall, or may, result in demotion, the procedures for determining whether or not to demote a deputy, and the procedures for executing a demotion;

5. Factors that shall, or may, result in fining, probation, suspension, or removal; and

6. Administrative procedures for the deputies in the office such as transfer, layoff, and reinstatement.

(b) For the general administration of the board itself:

1. Organizational structure and conduct of meetings;

2. Procedure and conduct of public hearings as a result of the board's actions; and

3. Implementation and execution of written and oral examinations, and physical tests of fitness for appointment and promotion of deputies.

(3) The subsequent issuance of additional rules, or of the repeal or amendment of existing rules shall follow the provisions indicated in subsection (1) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 70.260 to 70.273 IS CREATED TO READ AS FOLLOWS:

(1) Deputy sheriff merit boards shall employ a chief examiner who shall operate under the board's sole supervision.

(2) The board shall only employ a person for this position who is qualified and experienced in the field of testing.

(3) The examiner shall design, administer, and evaluate all written tests the board requires applicants for promotion to take for consideration for promotion. Each applicant for promotion shall be given an oral and written examination to determine the applicant's qualification for promotion.

(4) The examiner shall select a panel of three (3) persons to conduct the oral portion of the exam battery. The panel shall be selected from an agency other than the local sheriff's office, and the panel members shall be of at least the same rank to which the applicant aspires and of the same field.

(5) Unless the sheriff certifies that the applicant is not physically fit for promotion, physical fitness shall be presumed.

(6) (a) The composite score of the examination battery shall be calculated as follows:

1. Sixty-five percent (65%) for the written examination; and

2. Thirty-five percent (35%) for the oral examination.

(b) An applicant shall receive one (1) seniority point to be added to the composite score for each full year over three (3) full years of service. No applicant shall receive more than ten (10) seniority points. No applicant shall receive a seniority point for serving less than a full year.

(7) Testing and scoring methods shall not depart from, or be inconsistent with, those set out in this section.

(8) The chief examiner shall deliver the final scores of the applicants for promotion, in a manner that will ensure complete privacy and confidentiality of the applicants and their scores, directly to the chair of the board. The chief examiner shall not release this information to anyone but the chair of the board.

(9) Notice of the date, time, and place of examinations shall be given no later than ninety (90) days before the examination date.

(10) Promotions shall be filled by the sheriff from a list of no more than three (3) of the candidates who obtained the highest combined scores on the written and oral examination, including any seniority points, and are physically fit to serve in the new capacity.".

Floor Amendment No. 3 Title to **SB 13**, by Representative Thomas:

By amending the title to read as follows: "AN ACT relating to law enforcement and fire protection.".

Floor Amendment No. 1 to **SB 257**, by Representative Siler:

On page 1, line 18 after "periods" by inserting "***during the regular term of the school year***";

On page 1, line 19 after "employees" by inserting "***within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation***";

On page 1, lines 20 through 22, by deleting all new and underlined language.

Floor Amendment No. 2 Title to **SB 44**, by Representative Riner:

by deleting the words "local government financial" and inserting in lieu thereof the word "public".

Floor Amendment No. 1 to **SB 44**, by Representative Riner:

On page 3, after line 7, by inserting the following:

"Section 3. KRS 61.884 is amended to read as follows:

(1) Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of KRS 61.878.

(2) A public agency shall permit any person who files a written grievance with the public agency to waive confidentiality and specify that the grievance shall be a public record of the agency, subject to KRS 61.878(4), as it relates to excepted material concerning a person or entity other than the person filing the grievance.".

Floor Amendment No. 3 to **SB 18**, by Representative Allen:

On page 1, line 19, after "***the***" by deleting "***certificates***" and inserting "***certificate***" in lieu thereof, and after the second "***of***" by deleting "***temporary or***"; and

On page 1, line 21, after "***in***" by deleting "***paragraphs***" and inserting "***paragraph***" in lieu thereof, and after "***(a)***" by deleting "***and (b)***"; and

On page 2, lines 8 through 10, by deleting them in their entirety; and

On page 2, line 11, by deleting "***(b)***" and inserting "***(a)***" in lieu thereof, and after "***A***" and before "***notice***" by deleting "***final***"; and

On page 2, line 14, by deleting "***(c)***" and inserting "***(b)***" in lieu thereof.

Motions, Petitions and Communications (Continued)

Representative Hoffman moved the adoption of the following **Legislative Citation No. 174**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors St. John Elementary School upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join Representative Charlie Hoffman in welcoming the members of St. John Elementary School to the House Chambers and in wishing them success in all future academic endeavors. **Legislative Citation No. 174** was adopted without objection.

Representative Anderson moved that the rules be suspended to reconsider the vote by which **HB 882** was defeated. The Speaker did not recognize the motion to suspend the rules but did recognize the motion that the vote by which **HB 882** was defeated be reconsidered. On the roll call on the motion to reconsider the vote by which **HB 882** was defeated the vote was: Yeas 56, Nays 10 (See March 19, 1998, roll call on **HB 882** - Appendix.) The motion that the vote by which **HB 882** was defeated be reconsidered was adopted. Representative Anderson moved that **HB 882** be posted for passage in the Orders of the Day. On the roll call that **HB 882** be posted for passage in the Orders of the Day the vote was: Yeas 58, Nays 12 (See March 19, 1998, roll call on **HB 882** - Appendix.) The motion that **HB 882** be posted for passage in the Orders of the Day was adopted. **HB 882** posted for passage in the Orders of the Day for March 20, 1998.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 146**, by Representative Riner:

On page 3, below line 18, to insert the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) Any person under the age of eighteen (18) years who smokes or has about his person or premises any cigar, cigarette, cigarette paper, or any other tobacco product shall be sentenced to not more than eight (8) hours of community service for a first offense and shall be sentenced to not more than sixteen (16) hours of community service for each subsequent offense.

(2) The court trying the case may remit a portion of the penalty for violation of this section upon disclosure by the defendant of the name of the person from whom he obtained the cigar, cigarette, cigarette paper, or tobacco product.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) Every peace officer may, when he finds a person under the age of eighteen (18) years smoking or having a cigar, cigarette, cigarette paper, or tobacco product in his possession, inquire immediately of the person where and from whom the person obtained the cigar, cigarette, cigarette paper, or tobacco product.

(2) If the peace officer has received information from the person cited as to where the cigar, cigarette, cigarette paper, or tobacco product was obtained, the officer shall communicate that information to the county attorney, in writing, in the most expeditious manner.

Motions, Petitions and Communications (Continued)

The following member filed a request to have his name added as co-sponsor of a Bill under rules previously suspended: **HB 532**, Representative McKee.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Arnold moved that he be recorded as voting "yea" on **SB 42**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Collins moved that he be recorded as voting "yea" on **SB 182** and **SB 207**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **SB 167**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Yonts moved that he be recorded as voting "yea" on **SB 182** and **SB 167**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ratliff moved that his vote be changed from "nay" to "yea" on **SB 75**. Agreed. Representative Ratliff moved that his vote be changed from "yea" to "nay" on **SB 76**. Agreed. Representative Ratliff moved that he be recorded as voting "yea" on **SB 136, SB 264, SB 114, SB 182, SB 103,** and **SB 42**. Agreed. Representative Ratliff moved that he be recorded as voting "nay" on **SB 167** and **SB 259**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Palumbo moved that she be recorded as voting "yea" on **SB 76**. Agreed.

Representative Hogancamp moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hogancamp moved that her vote be changed from "yea" to "nay" on **HB 75**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that she be recorded as voting "yea" on **HB 532**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that his vote be changed from "yea" to "nay" on **SB 76**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **SB 211**. Agreed.

Representative Bratcher moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bratcher moved that his vote be changed from "yea" to "nay" on **HB 636**. Agreed.

Representative Rader moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Rader moved that her vote be changed from "nay" to "yea" on **HB 810**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that he be recorded as voting "yea" on **SB 182**. Agreed.

Representative Lee moved the adoption of the following **Legislative Citation No. 176**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Elizabethtown High School Lady Panthers for becoming the Girls High School Basketball State Champions on March 14, 1998, and ending their season with an impressive 29-3 record. Inasmuch as these outstanding young women are the masters of basketball skill, this prestigious body commends the accomplishments of this dedicated team and recognizes the great honor and distinction they have brought their school and community. The House of Representatives joins Representative Jimmie Lee in honoring this team for its remarkable achievements and in wishing its members every success as they further their academic and athletic careers. **Legislative Citation No. 176** was adopted without objection.

Announcements

The following meetings were announced: Natural Resources and Environment, March 20, 1998, 9:30 a.m.; Appropriations and Revenue, upon adjournment, Room 129.; Health and Welfare, March 19, 1998.; Transportation, Room 129, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 20, 1998.

On the roll call the vote was **Yeas 73**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Burch, D. Butler, D. D. Butler, Callahan, L. Clark, J. Clarke, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, G. Graham, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lovell, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 7**--Bratcher, Cave, Crall, Hoover, Maricle, Stewart, Walton.

The motion to adjourn was adopted.

FRIDAY, MARCH 20, 1998

FIFTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Alexander, D. Graham, Napier, and Rasche.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 20, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Journal reflect that **SB 392** was not referred to a Committee on March 18, 1998. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 370, SB 438, HB 37, HB 51, HB 97, HB 309, HB 406, HB 493** and **HB 602**. Message received on **HB 62**: The Senate has passed **HB 62** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 168**: The Senate has passed **HB 168** with Senate Floor Amendment No. 3 and respectfully requests concurrence of this Honorable Body. Message received on **HB 286**: The Senate has passed **HB 286** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 401**: The Senate has passed **HB 401** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 10:05 a.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 50, HB 126, HB 231, HB 299, HB 396, HB 417, HB 439, HB 477, HB 486, HB 515, HB 548, HB 549, HB 624, HB 656, HB 679, HCR 59, SB 42, SB 75, SB 136, SB 182, SB 211, SB 253,** and **SB 264** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:12 a.m.) **HB 50, HB 126, HB 231, HB 299, HB 396, HB 417, HB 439, HB 477, HB 486, HB 515, HB 548, HB 549, HB 624, HB 656, HB 679,** and **HCR 59** delivered to the Senate and signed by the President. Delivered to the Governor on March 20, 1998 at 10:37 a.m.

Floor Amendments

Floor Amendment No. 1 to **SB 277**, by Representative Murgatroyd:

On page 1, line 4, after "*facilities.*", by inserting the following:

"*(a) A local board of education shall be exempt from the requirement to establish a recycling program as described in this section if there is no recycling facility within the county or within a reasonable distance in an adjoining geographic area, or the district cannot locate a recycling vendor to service the school district, without incurring a negative fiscal impact.*

(b) ".

Introduction of Resolutions

HR 139, by Representative Lee: A RESOLUTION declaring July 19, 1998, "Stepparents Day."

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 423**

Counties and Special Districts: **SB 396**

Education: **SB 168**

Health and Welfare: **SB 95, SB 351, SB 374**

Judiciary: **SB 199, SB 373**

Licensing and Occupations: **SB 287, SB 357**

State Government: **SB 361, SB 390, SB 430**

Transportation: **SB 440**

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 137, HR 138**

Report of Committees

The Committee on Rules reported that **SB 19, SB 36, SB 55, SB 74, SB 83, SB 106, SB 122, SB 247, SB 250, SB 269, SB 296,** and **SB 354** have been posted for passage in the Orders of the Day for March 23, 1998.

The Committee on Transportation reported **SB 233,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 233, AN ACT relating to outdoor advertising devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall

be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right-of-way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings***;***~~[.]~~

(10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00)***;***

(11) "Billboard viewing zone" means a one thousand (1,000) foot area measured on the centerline of the travel lane having as one terminus the point of the centerline immediately opposite the billboard;

(12) "Screening" means the obstruction of the view of a billboard as viewed from the center line of the highway structure;

(13) "Routine maintenance" as it relates to a nonconforming advertising device means:

(a) The maintenance of an advertising device that is limited to replacement of nuts and bolts or other material, nailing, riveting, or welding, cleaning and painting, or manipulating to level or plumb the advertising device;

(b) The routine change of message; and

(c) The repair of existing stringers, panels, facings, or poles, or the replacement of existing stringers, panels and facings. The display shall remain substantially as it was on the date the structure was classified by as nonconforming. Materials similar to the materials used in the structure on that date shall be used for repair. The structure shall not be repaired if it is destroyed.

Notwithstanding whether it is permissible to repair the supporting members of an advertising device, routine maintenance shall not mean adding guys or struts for the stabilization of the device or substantially changing the device;

(14) "Destroyed" means that the advertising device has sustained damage by any means in excess of fifty percent (50%) of the entire advertising device, including supports, poles, guys, struts, panels, facing, and bracing. To be structurally and visually acceptable, the damage shall require more than fifty percent (50%) of the advertising device to be repaired or replaced through one (1) or more of the following remedies:

(a) Adding guys or struts;

(b) Adding new supports or poles by splicing or attaching to existing supports;

(c) Adding new or replacement peripheral or integral structural bracing or framing; or

(d) Adding new or replacement panels or facings; and

(15) "Routine change of message" as it relates to a nonconforming advertising device means the message change on an advertising device from one (1) advertised product or activity to another, including the lamination, fixing, or preparation of existing or new panels or facings, at a plant or factory for the changing of messages as the normal operating procedure of a company.

Section 2. KRS 177.850 is amended to read as follows:

The general purposes of KRS 177.830 to 177.890 and its specific objectives and standards are:

(1) To provide for maximum visibility along interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and connecting roads or highways;

(2) ***To provide standards for the opening of views to business and legally erected forms of outdoor advertising that have been obstructed by vegetation growing upon interstate highways, limited access highways, federal-aid primary highways, turnpikes, and connecting roads;***

(3) To prevent unreasonable distraction of operators of motor vehicles;

(4)[~~(3)~~] To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(5)[~~(4)~~] To preserve and enhance the natural scenic beauty or the aesthetic features of the aforementioned interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and adjacent areas;

(6)[~~(5)~~] To promote maximum safety, comfort and well-being of the users of said highways.

Section 3. KRS 177.860 is amended to read as follows:

The commissioner of the Department of Highways shall prescribe by ***administrative*** regulations ***under KRS Chapter 13A*** reasonable standards for the advertising devices hereinafter enumerated, designed to protect the safety of and to guide the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850, and the erection and ***routine*** maintenance ***and routine change of message*** of any of the following advertising devices, if they comply with the regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:
  (a) The name and address of the owner, lessee, or occupant of the property; or
  (b) The name or type of business or profession conducted on the property; or
  (c) Information required or authorized by law to be posted or displayed on the advertising device;

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of the advertising devices is compatible with the safety and convenience of the traveling public.

Section 4. KRS 177.863 is amended to read as follows:

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

(1) Prohibited advertising devices:
  (a) Advertising devices that are not clean and in good repair.
  (b) Advertising devices that are not securely affixed to a substantial structure.
  (c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.
  (d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.
  (e) Advertising devices on trees, or painted upon natural features.
  (f) Advertising devices exceeding ***one thousand two hundred fifty (***1,250***)*** square feet on each face including border and trim, but excluding supports.
  (g) Advertising devices advertising an activity that is illegal under state or federal law.
  (h) Obsolete advertising devices.

(2) Spacing of advertising devices:
  (a) ***An***[~~No~~] advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall ***not*** be erected within ***three hundred (***300***)*** feet of any other[~~, such~~] advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway ***except***[~~; Provided, however, That~~] in an incorporated municipality ***the***[~~such~~] required distance shall be reduced to ***one hundred (***100***)*** feet.
  (b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.
  (c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.
  (d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.

(3) Size of advertising devices:
  (a) The maximum area for any advertising device shall be ***one thousand two hundred fifty (***1,250***)*** square feet,

including border and trim but excluding supports.

(b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.

(c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices:

Advertising devices may be illuminated, subject to the following restrictions:

(a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Advertising devices ***are prohibited that***[~~which~~] are not effectively shielded[~~ as~~] to prevent beams or rays of light from being directed at any portion of the traveled way of the highway ***and***[~~which~~] are of ***an***[~~such~~] intensity or brilliance ***that causes***[~~as to cause~~] glare***, impairs***[~~ or to impair~~] the vision of the driver of any motor vehicle, or[~~ which~~] otherwise ***interferes***[~~interfere~~] with any driver's operation of a motor vehicle[~~ are prohibited~~].

(c) ***An***[~~No~~] advertising device shall ***not*** be so illuminated that it interferes with the effectiveness of***,*** or obscures***,*** an official traffic sign, device or signal.

(5) Vegetation control of advertising devices:

(a) A person shall obtain a permit from the cabinet prior to implementing vegetation control on a highway right-of-way. No permit shall be issued for clear-cutting, and clear-cutting shall be strictly prohibited.

(b) The secretary shall, by the effective date of this Act, establish a permit procedure for the selective control of vegetation that screens legally erected forms of advertising devices. An outdoor advertising device shall be considered to be screened when the advertising message is obstructed, in whole or in part, within the viewing zone of the advertising device for a cumulated distance of five hundred (500) feet in the direction the sign is facing.

(c) The permit procedure shall include an application for the issuance of a permit to trim or remove selective vegetation. The application shall provide for a selective vegetation control plan, in accordance with accepted horticulture practice, including a sketch showing the requested limits of vegetation control.

(d) The selective vegetation control plan shall be reviewed by a representative of the cabinet, including an on-site inspection of the applicant's landscape personnel. The results of the inspection shall be included in the permit application.

(e) The department shall approve or deny an application for a permit within thirty (30) days of receipt of the application.

(f) The permit shall specify that selected vegetation, within the approved limits, shall be removed in accordance with accepted horticultural practices.

(g) The permit shall require a performance bond in an amount determined by the cabinet to run concurrently with the permit.

(h) A permit shall be issued annually and may be issued for multiple sites.

(i) The cabinet shall establish a permit fee by administrative regulation under KRS Chapter 13A to offset the cost of issuing a permit under this section.

(j) A permit shall require a closure letter from the applicant stating the work has been completed in accordance with the terms of the application.

(6) Nonconforming advertising devices may continue to exist after the effective date of this Act; however, an off-premise nonconforming, but otherwise legal, advertising device may continue to exist until just compensation has been paid to the owner of the device only if the device is:

(a) Not destroyed, abandoned, or discontinued;

(b) Subjected to only routine maintenance;

(c) In conformance with local zoning, sign, or building restrictions at the time the device was erected; and

(d) In accordance with the provisions of this section.

Performance of other than routine maintenance on a nonconforming, but otherwise legal, advertising device shall cause the device to lose its legal status and to be classified as illegal.

Section 5. KRS 177.870 is amended to read as follows:

(1) Any advertising device erected, maintained, replaced, relocated, repaired or restored in violation of KRS 177.830 to 177.890***, without a state permit,*** is hereby declared to be, and is, a public nuisance***. The department shall give written***

notice to remove the advertising device to the owner of the land upon which the advertising device is located and to the owner of the advertising device if the owner is known to the department. If the advertising device is not removed within thirty (30) days after the department has given notice, the[~~and such~~] device may without notice be abated and removed by any officer or employee of the state Department of Highways***,*** or upon request of the commissioner ***of highways***[~~by any peace officer~~].

(2) The department shall by administrative regulation promulgated under KRS Chapter 13A provide for the revocation of a permit and removal of an advertising device for which a permit has been issued or designated as nonconforming and found in violation of KRS 177.830 to 177.890, and an appeal under this section shall be pursued under the provisions of KRS Chapter 13B. The revocation and removal policy shall provide for the department to give the owner of the advertising device notice and a hearing, if requested, prior to any order to remove the advertising device.

(3) Any person who violates the provisions of KRS 177.830 to 177.890 shall be fined one hundred dollars ($100) per day for each day that the violation continues.

The House Committee Substitute to **SB 233** is as follows:

AN ACT relating to outdoor advertising devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right-of-way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings***;***[~~.~~]

(10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00)***;***

(11) "Billboard viewing zone" means a one thousand (1,000) foot area measured on the centerline of the travel lane having as one terminus the point of the centerline immediately opposite the billboard;

(12) "Screening" means the obstruction of the view of a billboard as viewed from the center line of the highway structure;

(13) "Routine maintenance" as it relates to a nonconforming advertising device means:

(a) The maintenance of an advertising device that is limited to replacement of nuts and bolts or other material, nailing, riveting, or welding, cleaning and painting, or manipulating to level or plumb the advertising device;

(b) The routine change of message; and

(c) The repair of existing stringers, panels, facings, or poles, or the replacement of existing stringers, panels and facings. The display shall remain substantially as it was on the date the structure was classified as nonconforming. Materials similar to the materials used in the structure on that date shall be used for repair. The structure shall not be repaired if it is destroyed.

Notwithstanding whether it is permissible to repair the supporting members of an advertising device, routine maintenance shall not mean adding guys or struts for the stabilization of the device or substantially changing the device;

(14) "Destroyed" means that the advertising device has sustained damage by any means in excess of fifty percent (50%) of the entire advertising device, including supports, poles, guys, struts, panels, facing, and bracing. To be structurally and visually acceptable, the damage shall require more than fifty percent (50%) of the advertising device to be repaired or replaced through one (1) or more of the following remedies:

(a) Adding guys or struts;

(b) Adding new supports or poles by splicing or attaching to existing supports;

(c) Adding new or replacement peripheral or integral structural bracing or framing; or

(d) Adding new or replacement panels or facings; and

(15) "Routine change of message" as it relates to a nonconforming advertising device means the message change on an advertising device from one (1) advertised product or activity to another, including the lamination, fixing, or preparation of existing or new panels or facings, at a plant or factory for the changing of messages as the normal operating procedure of a company.

Section 2. KRS 177.850 is amended to read as follows:

The general purposes of KRS 177.830 to 177.890 and its specific objectives and standards are:

(1) To provide for maximum visibility along interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and connecting roads or highways;

(2) ***To provide standards for the opening of views to business and legally erected forms of outdoor advertising that have been obstructed by vegetation growing upon interstate highways, limited access highways, federal-aid primary highways, turnpikes, and connecting roads;***

(3) To prevent unreasonable distraction of operators of motor vehicles;

(4)[~~(3)~~] To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(5)[~~(4)~~] To preserve and enhance the natural scenic beauty or the aesthetic features of the aforementioned interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and adjacent areas;

(6)[~~(5)~~] To promote maximum safety, comfort and well-being of the users of said highways.

Section 3. KRS 177.860 is amended to read as follows:

The commissioner of the Department of Highways shall prescribe by ***administrative*** regulations ***under KRS Chapter 13A*** reasonable standards for the advertising devices hereinafter enumerated, designed to protect the safety of and to guide the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850, and the erection and ***routine*** maintenance ***and routine change of message*** of any of the following advertising devices, if they comply with the regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:

(a) The name and address of the owner, lessee, or occupant of the property; or

(b) The name or type of business or profession conducted on the property; or

(c) Information required or authorized by law to be posted or displayed on the advertising device;

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of the advertising devices is compatible with the safety and convenience of the traveling public.

Section 4. KRS 177.863 is amended to read as follows:

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

(1) Prohibited advertising devices:

(a) Advertising devices that are not clean and in good repair.

(b) Advertising devices that are not securely affixed to a substantial structure.

(c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.

(e) Advertising devices on trees, or painted upon natural features.

(f) Advertising devices exceeding ***one thousand two hundred fifty (***1,250***)*** square feet on each face including border and trim, but excluding supports.

(g) Advertising devices advertising an activity that is illegal under state or federal law.

(h) Obsolete advertising devices.

(2) Spacing of advertising devices:

(a) ***An***[~~No~~] advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall ***not*** be erected within ***three hundred (***300***)*** feet of any other[~~ such~~] advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway ***except***[~~, Provided, however, That~~] in an incorporated municipality ***the***[~~such~~] required distance shall be reduced to ***one hundred (***100***)*** feet.

(b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.

(c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.

(d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.

(3) Size of advertising devices:

(a) The maximum area for any advertising device shall be ***one thousand two hundred fifty (***1,250***)*** square feet, including border and trim but excluding supports.

(b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.

(c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices:

Advertising devices may be illuminated, subject to the following restrictions:

(a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Advertising devices ***are prohibited that***[~~which~~] are not effectively shielded[~~ as~~] to prevent beams or rays of light from being directed at any portion of the traveled way of the highway ***and***[~~which~~] are of ***an***[~~such~~] intensity or brilliance ***that causes***[~~as to cause~~] glare***, impairs***[~~ or to impair~~] the vision of the driver of any motor vehicle, or[~~ which~~] otherwise ***interferes***[~~interfere~~] with any driver's operation of a motor vehicle[~~ are prohibited~~].

(c) ***An***[~~No~~] advertising device shall ***not*** be so illuminated that it interferes with the effectiveness of***,*** or obscures***,*** an official traffic sign, device or signal.

(5) The owner of a legally erected outdoor advertising device which has not been reclassified as illegal by the Department of Highways may apply to the Department of Highways for approval of a vegetation control plan for the advertising device.

(a) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards for vegetation control plans and procedures and fees for the application for approval of a vegetation control plan and a permit to control vegetation.

(b) The standards for approval of a vegetation control plan shall include, but not be limited to:

1. Replacement of landscaping vegetation;

2. Accepted horticultural practices; and

3. Prohibition of removal of any vegetation which screened the outdoor advertising device when a permit was originally issued for the outdoor advertising device.

(c) The application for approval of a vegetation control plan shall include the following:

1. Identification of the outdoor advertising device;

2. Identification of the owner of the outdoor advertising device;

3. A photograph and a map or sketch showing the location of the outdoor advertising device, its viewing area, and the portion of the device which is obstructed or will be obstructed within the next two (2) years;

4. A photograph and a map or sketch identifying all areas of requested vegetation control and if the vegetation is natural growth or landscaping material; and

5. The horticulture practice and vegetation control plan that the applicant recommends be used for the vegetation control in front of the outdoor advertising device.

(d) The Department of Highways may require the applicant to attend a meeting on the outdoor advertising device site during the evaluation of a vegetation control plan.

(e) Approval of a vegetation control plan shall be valid until conditions on the highway right-of-way or the outdoor advertising device have changed or five (5) years have elapsed, whichever comes first.

(f) If the owner of a screened outdoor advertising device has an approved vegetation control plan and the message on the outdoor advertising device is obstructed, in whole or in part, within the viewing zone of the advertising device for a cumulative distance of five hundred (500) feet in the direction the sign is facing, the owner may apply for a permit to have the approved plan implemented by the Department of Highways.

(g) The Department of Highways shall establish contracts for vegetation control on highway right-of-way. Either the Department of Highways or the holder of a contract for the area in which the outdoor advertising device is located shall perform the mowing, trimming, or cutting of vegetation on the highway right-of-way allowed under this permit.

(h) The permit shall require a performance bond, in an amount determined by the Department of Highways, to run concurrently with the permit.

(i) The applicant for the permit shall pay to the department the estimated cost of the vegetation control and on-site inspection prior to the issuance by the Department of Highways of a notice to proceed to the contractor or department personnel.

(j) The department shall approve or deny an application for a permit within thirty (30) days of receipt of an application.

(k) After the vegetation control included in the permit has been completed, if the cost to the department was less than the original estimate, the Department of Highways shall reimburse the applicant for the excess amount paid.

(l) After the vegetation control included in the permit has been completed, if the cost to the department was more than the original estimate, the applicant shall either pay the department the additional amount owed or authorize payment from the bond required in paragraph (h) of this subsection.

(6) Nonconforming advertising devices may continue to exist after the effective date of this Act; however, an off-premise

nonconforming, but otherwise legal, advertising device may continue to exist until just compensation has been paid to the owner of the device only if the device is:

(a) Not destroyed, abandoned, or discontinued;

(b) Subjected to only routine maintenance;

(c) In conformance with local zoning, sign, or building restrictions at the time the device was erected; and

(d) In accordance with the provisions of this section.

Performance of other than routine maintenance on a nonconforming, but otherwise legal, advertising device shall cause the device to lose its legal status and to be classified as illegal.

Section 5. KRS 177.870 is amended to read as follows:

(1) Any ***illegal*** advertising device erected, maintained, replaced, relocated, repaired or restored in violation of KRS 177.830 to 177.890***, without a state permit,*** is hereby declared to be, and is, a public nuisance***. The department shall give written notice to remove the illegal advertising device to the owner of the land upon which the advertising device is located and to the owner of the advertising device if the owner is known to the department. If the illegal advertising device is not removed within thirty (30) days after the department has given notice, the***[~~and such~~] device may without notice be abated and removed by any officer or employee of the state Department of Highways***,*** or upon request of the commissioner ***of highways***[~~by any peace officer~~].

(2) The department shall by administrative regulation promulgated under KRS Chapter 13A provide for the revocation of a permit and removal of an advertising device for which a permit has been issued or designated as illegal and found in violation of KRS 177.830 to 177.890, and an appeal under this section shall be pursued under the provisions of KRS Chapter 13B. The revocation and removal policy shall provide for the department to give the owner of the advertising device notice and a hearing, if requested, prior to any order to remove the advertising device.

(3) The department shall give the owner of an advertising device notice prior to imposing a penalty under this subsection or KRS 177.990. In addition to the penalties established by KRS 177.990, any person who intentionally or knowingly, as defined in KRS 6.616, violates the provisions of KRS 177.830 to 177.890 shall be fined one hundred dollars ($100) per day for each day that the violation continues, beginning twenty (20) days from the date of the hearing officer's order if any appeal hearing is requested and conducted under the provisions of KRS Chapter 13B or immediately upon a judge's order if appealed to the Circuit Court. If the administrative hearing officer finds the violation to be willful and intentional, the daily fine shall begin immediately upon the date of the violation.

The Committee on Appropriations and Revenue reported **SB 21**, with House Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 21, AN ACT relating to postsecondary education funding and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby declares that the best interest of the Commonwealth mandates that financial assistance be provided to ensure access of Kentucky citizens to public and private postsecondary education at the postsecondary educational institutions of the Commonwealth.

(2) It is the intent and purpose of the General Assembly that the enactment of Sections 1 to 6, 8, and 9 of this Act shall be construed as a long-term financial commitment to postsecondary education and that the funding provided by subsections (3) and (4) of Section 7 of this Act shall not be diverted from the purposes described in Sections 1 to 6, 8, and 9 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6, 8, and 9 of this Act:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Commission" means the Green Scholar Commission in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District;

(7) "Commonwealth merit scholarship" means a scholarship provided to an eligible student to attend a participating institution;

(8) "Commonwealth merit scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(9) "Commonwealth merit scholarship trust fund" means the Wallace G. Wilkinson Commonwealth merit scholarship trust fund;

(10) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(11) "Eligible student" means any person who is a Kentucky resident first enrolling in a Kentucky high school as a freshman, after July 1, 1997, a sophomore after July 1, 1998, a junior after July 1, 1999, or a senior after July 1, 2000, who, while meeting the Commonwealth merit scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1997, and who is not a convicted felon;

(12) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(13) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(14) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(15) "Maximum award amount" means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum amount available to the eligible student for any award period;

(16) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs; and

- *(a) 1. Is publicly operated; or*
    - *2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and*
- *(b) Commits the same percentage of financial resources to student financial assistance programs as in fiscal year 1997-98 and provides annual documentation to the authority of compliance;*

(17) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(18) "Supplemental award" means commitment of additional scholarship funds under subsection (3) of Section 4 of this Act to an eligible student based on the eligible student's ACT score.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson Commonwealth Merit Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with Section 7 of this Act; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.

(2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in Sections 1 to 6, 8, and 9 of this Act.

(3) The council shall administer the Commonwealth merit scholarship trust fund. Upon the approval of the council, the authority may expend funds from the Commonwealth merit scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Commonwealth merit scholarship trust fund not to exceed five percent (5%) of the fund balance at the beginning of the year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Commonwealth merit scholarship awards shall be based upon an established base scholarship amount and an eligible student's grade point average. The base scholarship amount for students attaining a grade point average between 2.5 and 4.0 for the 1997-1998 academic year shall be as follows:

GPA	*Amount*	*GPA*	*Amount*
2.50	*$125.00*	*3.30*	*$325.00*
2.60	*$150.00*	*3.40*	*$350.00*
2.70	*$175.00*	*3.50*	*$375.00*
2.75	*$187.50*	*3.60*	*$400.00*
2.80	*$200.00*	*3.70*	*$425.00*
2.90	*$225.00*	*3.75*	*$437.50*
3.00	*$250.00*	*3.80*	*$450.00*
3.10	*$275.00*	*3.90*	*$475.00*
3.20	*$300.00*	*4.00*	*$500.00*
3.25	*$312.50*		

The council shall review the base amount of the Commonwealth merit scholarship beginning with the 1998-1999 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) The authority shall commit to provide to each eligible student the base amount of the Commonwealth merit scholarship for each academic year of high school study in the Commonwealth merit scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible student, regardless of any subsequent increases made to the base amount of the Commonwealth merit scholarship through the promulgation of an administrative regulation by the council.

(3) (a) The authority shall commit to provide to each eligible student upon graduation from high school and achievement of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	*Amount*	*ACT Score*	*Amount*
15	*$36*	*22*	*$286*
16	*$71*	*23*	*$321*
17	*$107*	*24*	*$357*
18	*$143*	*25*	*$393*
19	*$179*	*26*	*$428*
20	*$214*	*27*	*$464*
21	*$250*	*28 and above*	*$500*

The council shall review the base amount of the supplemental award beginning with the 1998-1999 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(b) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who graduate from a nonpublic high school not certified by the Kentucky Board of Education and Kentucky residents who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Every eligible student who has graduated from high school and who has earned a Commonwealth merit scholarship, or a Commonwealth merit scholarship and a supplemental award, shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award, for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award, an eligible student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award

shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award for a cumulative total of eight (8) academic terms if the student enrolls full-time in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible student for an award period shall be disbursed by the authority to the eligible student in two (2) equal installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible student.

(c) 1. An eligible student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible student shall have a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each eligible student enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) An eligible student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award for a maximum of ten (10) academic terms. The expiration of an eligible student's five (5) year eligibility shall be extended to six (6) years for eligible students meeting the requirements of this subsection.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Not later than August 1, 1998, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students during the academic year. The list shall identify the high school and shall contain each eligible student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT

score. The authority shall notify each eligible student of his or her Commonwealth merit scholarship award earned each academic year. The authority shall determine the final Commonwealth merit scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible student of the final determination. The authority shall make available a list of eligible students to participating institutions.

(2) Not later than January 30, 2001, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's projected Commonwealth merit scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected Commonwealth merit scholarship and supplemental award amount.

(3) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible student or have been listed by the eligible student on the Free Application For Federal Student Aid.

(4) For each eligible student enrolling in a participating institution after July 1, 2001, the participating institution shall verify to the authority:

- *(a) The student's initial eligibility for a Commonwealth merit scholarship or Commonwealth scholarship and supplemental award through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;*
- *(b) The student's highest ACT score attained by the date of graduation from high school;*
- *(c) The eligible student's full-time or part-time enrollment status at the beginning of each academic term; and*
- *(d) The eligible student's cumulative grade point average after the completion of each award period.*

(5) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible students enrolled for that academic term. Commonwealth merit scholarships and supplemental awards shall be disbursed by the authority to each eligible student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(6) Except as provided in this subsection, the Commonwealth merit scholarship and the supplemental award shall not be reduced.

- *(a) If the sum of the Commonwealth merit scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec. 1087ll, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education.*
- *(b) Commonwealth merit scholarships and supplemental awards shall not be awarded to any eligible students who are in default on any obligation to the authority under any programs administered by the authority under KRS 164.785 until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.*

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Commonwealth merit scholarships and supplemental awards under the provisions of Sections 1 to 6, 8, and 9 of this Act.

Section 7. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of

winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) ***Net lottery revenues from the sale of lottery tickets shall be credited from the general fund to the Commonwealth merit scholarship trust fund established in Section 3 of this Act, as follows:***

(a) One million dollars ($1,000,000) in fiscal year 1998-1999;

(b) Two million dollars ($2,000,000) in fiscal year 1999-2000;

(c) Twenty percent (20%) of net lottery revenues in fiscal year 2000-2001 and fiscal year 2001-2002;

(d) Thirty-five percent (35%) of net lottery revenues in fiscal year 2002-2003 and fiscal year 2003-2004; and

(e) Forty-five percent (45%) of net lottery revenues in fiscal year 2004-2005 and 2005-2006 and each fiscal year thereafter.

(4) Net lottery revenues from the sale of lottery tickets shall be credited from the general fund to the College Access Program and the Kentucky Tuition Grants Program, as follows:

(a) Thirteen million dollars ($13,000,000) in fiscal year 1998-1999;

(b) Eighteen million dollars ($18,000,000) in fiscal year 1999-2000;

(c) Thirty-five percent (35%) of net lottery revenues in fiscal year 2000-2001 and fiscal year 2001-2002;

(d) Forty percent (40%) of net lottery revenues in fiscal year 2002-2003 and fiscal year 2003-2004; and

(e) Forty-five percent (45%) of net lottery revenues in fiscal year 2004-2005 and fiscal year 2005-2006 and each fiscal year thereafter.

(5) Net lottery revenues from the sale of lottery tickets shall be credited from the general fund to the Collaborative Center for Literacy Development as follows:

(a) Five million dollars ($5,000,000) in fiscal year 1999-2000; and

(b) Up to ten percent (10%) of net lottery revenues in fiscal year 2000-2001, and each fiscal year thereafter.

(6) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Jeff Green Scholars Program to enable Kentucky's most outstanding students to pursue postsecondary education opportunities at participating institutions in the state. Beginning with the high school graduating class 1997-1998, the program shall annually award one hundred (100) scholarships for students to attend institutions offering four (4) year programs to be funded from money in the Commonwealth Merit Scholarship Trust fund established in Section 3 of this Act. The scholarships shall include support for tuition, books, fees, room, and board with the maximum award equal to the cost as determined by the authority of attending the most expensive comparable public institution, but no award shall exceed the student's actual total cost of attendance.

(2) The authority, after consultation with the commission established in Section 9 of this Act, shall promulgate an administrative regulation in accordance with KRS Chapter 13A, establishing the policies and procedures for administering the program to include, but not be limited to:

(a) The eligibility and selection criteria. Students applying for scholarships to attend participating institutions offering baccalaureate programs shall be Kentucky residents, have at least a 3.5 grade point average, an ACT score of at least 28, show commitment to program completion, and have letters of recommendation;

(b) The calculation of the scholarship amount;

(c) The terms and conditions for the award;

(d) Student eligibility for renewal awards; and

(e) A procedure to defer a scholarship due to hardship.

(3) The authority shall disseminate information about the program to Kentucky high schools.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Green Scholars Commission which shall consist of nine (9) members appointed by the Governor as follows:

(a) Three (3) admissions officers representing public four (4) year institutions;

(b) Three (3) admissions officers representing private four (4) year institutions; and

(c) Three (3) members representing the public at large.

(2) Members of the commission shall serve four (4) year terms and until a successor is appointed, except the initial appointments shall be as follows:

(a) Five (5) members shall serve a two (2) year term; and

(b) Four (4) members shall serve a four (4) year term.

(3) The members of the commission may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the commission shall be paid from the authority's administrative funds for the program.

(4) The commission shall be responsible for advising the authority on the establishment of the Green Scholars Program and shall establish a process for annually selecting the students to be offered a scholarship.

(5) The authority staff shall provide support services for the commission.

The House Committee Substitute to **SB 21** is as follows:

AN ACT relating to postsecondary education funding and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby declares that the best interest of the Commonwealth mandates that financial assistance be provided to ensure access of Kentucky citizens to public and private postsecondary education at the postsecondary educational institutions of the Commonwealth.

(2) It is the intent and purpose of the General Assembly that the enactment of Sections 1 to 6 of this Act shall be construed as a long-term financial commitment to postsecondary education and that the funding provided by subsections (3) and (4) of Section 7 of this Act shall not be diverted from the purposes described in Sections 1 to 6, and 8 to 10 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Commonwealth merit scholarship" means a scholarship provided to an eligible student to attend a participating institution;

(7) "Commonwealth merit scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(8) "Commonwealth merit scholarship trust fund" means the Wallace G. Wilkinson Commonwealth merit scholarship trust fund;

(9) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(10) "Eligible student" means any person who is a Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Commonwealth merit scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;

(11) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(12) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(13) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(14) "Maximum award amount" means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum amount available to the eligible student for any award period;

(15) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs; and

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(16) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(17) "Supplemental award" means commitment of additional scholarship funds under subsection (3) of Section 4 of this Act to an eligible student based on the eligible student's ACT score.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson Commonwealth Merit Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with Section 7 of this Act; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.

(2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in Sections 1 to 6, and 8 to 10 of this Act.

(3) The council shall administer the Commonwealth merit scholarship trust fund. Upon the approval of the council, the authority may expend funds from the Commonwealth merit scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Commonwealth merit scholarship trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Commonwealth merit scholarship awards shall be based upon an established base scholarship amount and an eligible student's grade point average. The base scholarship amount for students attaining a grade point average between 2.5 and 4.0 for the 1998-1999 academic year shall be as follows:

GPA	*Amount*	*GPA*	*Amount*
2.50	*$125.00*	*3.30*	*$325.00*
2.60	*$150.00*	*3.40*	*$350.00*
2.70	*$175.00*	*3.50*	*$375.00*
2.75	*$187.50*	*3.60*	*$400.00*

2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.50
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.50		

The council shall review the base amount of the Commonwealth merit scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) The authority shall commit to provide to each eligible student the base amount of the Commonwealth merit scholarship for each academic year of high school study in the Commonwealth merit scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible student, regardless of any subsequent increases made to the base amount of the Commonwealth merit scholarship through the promulgation of an administrative regulation by the council.

(3) (a) The authority shall commit to provide to each eligible student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test a supplemental award for the award period beginning in the fall of 1999, based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who graduate from a nonpublic high school not certified by the Kentucky Board of Education and Kentucky residents who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Every eligible student who has graduated from high school and who has earned a Commonwealth merit scholarship, or a Commonwealth merit scholarship and a supplemental award, shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award, for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award, an eligible student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award for a cumulative total of eight (8) academic terms if the student enrolls full-time in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible student for an award period shall be disbursed by the authority to the eligible student in two (2) equal installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible student.

(c) 1. An eligible student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible student shall have a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each eligible student enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or

the Americorps, for up to three (3) years.

(6) An eligible student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award for a maximum of ten (10) academic terms. The expiration of an eligible student's five (5) year eligibility shall be extended to six (6) years for eligible students meeting the requirements of this subsection.

(7) Each eligible student who attends Murray State University shall be designated as a "Jeff Green Scholar."

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students during the academic year. The list shall identify the high school and shall contain each eligible student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The authority shall notify each eligible student of his or her Commonwealth merit scholarship award earned each academic year. The authority shall determine the final Commonwealth merit scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible student of the final determination. The authority shall make available a list of eligible students to participating institutions.

(2) Not later than January 30, 1999, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's projected Commonwealth merit scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected Commonwealth merit scholarship and supplemental award amount.

(3) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible student or have been listed by the eligible student on the Free Application For Federal Student Aid.

(4) For each eligible student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Commonwealth merit scholarship or Commonwealth scholarship and supplemental award through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school;

(c) The eligible student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible student's cumulative grade point average after the completion of each award period.

(5) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible students enrolled for that academic term. Commonwealth merit scholarships and supplemental awards shall be disbursed by the authority to each eligible student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(6) Except as provided in this subsection, the Commonwealth merit scholarship and the supplemental award shall not be reduced.

(a) If the sum of the Commonwealth merit scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec. 1087ll, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education.

(b) Commonwealth merit scholarships and supplemental awards shall not be awarded to any eligible students who are in default on any obligation to the authority under any programs administered by the authority under KRS 164.785 until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Commonwealth merit scholarships and supplemental awards under the provisions of Sections 1 to 6, 8, and 9 of this Act.

Section 7. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) ***Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund to the literacy development grant program fund established by Section 8 of this Act.***

(4) After the allocation of three million dollars ($3,000,000) to the literacy development grant program fund, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

- ***(a) To the Wallace G. Wilkinson Commonwealth merit scholarship trust fund established in Section 3 of this Act:***
  - ***1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;***
  - ***2. Fifteen percent (15%) in fiscal year 2000-2001;***
  - ***3. Twenty-five percent (25%) in fiscal year 2001-2002;***
  - ***4. Thirty-two percent (32%) in fiscal year 2002-2003;***
  - ***5. Forty percent (40%) in fiscal year 2003-2004; and***
  - ***6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and***
- ***(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:***
  - ***1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;***
  - ***2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;***
  - ***3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;***
  - ***4. Forty percent (40%) in fiscal year 2003-2004;***
  - ***5. Forty-five percent (45%) in fiscal year 2004-2005; and***
  - ***6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.***

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public

Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

SECTION 8. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the Department of Education the literacy development grant program fund. The fund shall consist of moneys credited to the fund under Section 7 of this Act, moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public or private, and interest accruing to the fund. Any moneys in the fund at the close of a fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.

(2) The purpose of the literacy development grant program fund is to provide grants to institutions of postsecondary education to develop training for educators in reliable, replicable, research-based reading models, and to promote literacy development. Grants may be provided for:

(a) Developing and implementing a clearinghouse of information about models addressing reading and literacy from elementary grades through adult education;

(b) Developing a collaborative mechanism for public and private institutions of postsecondary education to provide quality preservice and professional development for teachers and administrators in early reading instruction;

(c) Developing systems to assist school districts located in areas with low levels of reading skills in assessing and identifying and addressing literacy needs; and

(d) Developing programs to provide professional development and coaching for classroom teachers implementing selected reliable, replicable, research-based reading models.

(3) Criteria for the solicitation, review and approval of grant applications shall be developed by the Literacy Development Grant Steering Committee, created in Section 9 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Literacy Development Grant Steering Committee is hereby created for the purpose of administering the literacy development grant fund, created by Section 8 of this Act. The committee shall be composed of nine (9) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, a representative from the Advisory Council for Adult Education and Literacy to be selected by its membership, and the following members, to be appointed by the Governor:

(a) Two (2) school teachers with a specialty or background in reading and literacy;

(b) Two (2) university professors with a specialty or background in reading and literacy; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the council, other than members who serve by virtue of their position shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, two (2) members shall serve a one (1) year term, two (2) members shall serve a two (2) year term, and two (2) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications;

(c) Develop a process for monitoring grants that are awarded; and

(d) Approve grants or deny grant applications based upon criteria established by the committee.

(4) The committee shall, on or before September 1 of each year, submit an annual report to the Governor and the Legislative Research Commission describing the grants funded during the prior fiscal year including the amount and status of each grant.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 164.7535 and 164.785 to the contrary, if sufficient funds are available, the authority shall do one (1) of the following:

(1) Promulgate an administrative regulation to increase the maximum amount available under the grant programs to each student, up to the prevailing tuition rate charged by the regional public universities for full-time enrollment in an undergraduate program, but in no event shall a student receive more than the student's cost of education less expected family contribution and other anticipated student financial assistance;

(2) Promulgate an administrative regulation to increase the average income level for qualification for the grant programs; or

(3) Promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs.

The Committee Amendment No. 1 to the House Committee Substitute to **SB 21** is as follows:

On page 10, line 6, by deleting "***attends Murray State University***" and inserting in lieu thereof "***attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school***"; and

On page 10, line 7, after "***Scholar***" by inserting "***in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District***".

The Committee Amendment No. 2 Title to **SB 21** is as follows:

By amending the title to read as follows: "AN ACT relating to education and making an appropriation therefor."

The Committee on Natural Resources and Environment reported **SB 300** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 300, AN ACT relating to air quality.

WHEREAS, the United States is signatory to the 1992 United National Framework Convention on Global Climate Change ("FCCC");

WHEREAS, a protocol to expand the scope of the FCCC was negotiated in December 1997 in Kyoto, Japan ("Kyoto Protocol"), requiring the United States to reduce emissions of greenhouse gasses such as carbon dioxide and methane by seven percent (7%) from 1990 emission levels during the period 2008 to 2012, with similar reduction obligations for other major industrial nations;

WHEREAS, developing nations, including China, India, Mexico, Indonesia, and Brazil, are exempt from greenhouse gas emission limitation requirements in the FCCC;

WHEREAS, developing nations refused in the Kyoto negotiations to accept any new commitments for greenhouse gas emission limitations through the Kyoto Protocol or other programs;

WHEREAS, with respect to new commitments under the FCCC, President William J. Clinton pledged on October 22, 1997, that "The United States will not assume binding obligations unless key developing nations meaningfully participate in this effort";

WHEREAS, on July 25, 1997, the United States Senate adopted Senate Resolution No. 98 by a vote of 95-0, expressing the Sense of the Senate that, *inter alia*, "the United States should not be a signatory to any protocol to or other agreement regarding, the Framework Convention on Climate Change...which would require the advice and consent of the Senate to ratification, and which would mandate new commitments to mitigate green house gas emissions for the Developed Country Parties, unless the protocol or other agreement also mandates specific scheduled commitments within the same compliance period to mitigate greenhouse gas emissions for Developing Country Parties;"

WHEREAS, the Kyoto Protocol fails to meet the tests established for acceptance of new climate change commitments by President Clinton and by U.S. Senate Resolution No. 98;

WHEREAS, achieving the emission reductions proposed by the Kyoto Protocol would require more than a 35 percent reduction in projected United States carbon dioxide and other green house gas emissions during the period 2008 - 2012;

WHEREAS, developing countries exempt from emission limitations under the Kyoto Protocol are expected to increase their rates of fossil fuel use over the next two decades, and to surpass the United States and other industrialized countries in total emissions of greenhouse gases;

WHEREAS, increased emissions of greenhouse gases by developing countries would offset any potential environmental benefits associated with emissions reductions achieved by the Unites States and by other industrial nations;

WHEREAS, economic impact studies by the U.S. Government estimate that legally binding requirements for the reduction of U.S. greenhouse gases to 1990 emission levels would result in the loss of more than 900,000 jobs in the United States, sharply increased energy prices, reduced family incomes and wages, and severe losses of output in energy-intensive industries such as aluminum, steel, rubber, chemicals, and utilities;

WHEREAS, the failure to provide for commitments by developing countries in the Kyoto Protocol creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from the United States to developing countries;

WHEREAS, federal implementation of the Kyoto Protocol, if ratified by the United States Senate, would entail new Congressional legislation whose form and requirements cannot be predicted at this time, but could include national energy taxes or emission control allocation schemes that would preempt state-specific programs intended to reduce emissions of greenhouse gases;

WHEREAS, piecemeal or other uncoordinated state regulatory initiatives intended to reduce emissions of greenhouse gases may be inconsistent with subsequent Congressional determinations concerning the Kyoto Protocol, and with related Federal legislation implementing the Kyoto Protocol;

WHEREAS, individual state responses to the Kyoto Protocol, including development of new regulatory programs intended to reduce greenhouse gas emissions are premature prior to Senate ratification of that Protocol, in its current or amended form, and Congressional enactment of related implementing legislation; and

WHEREAS, there is neither federal or Kentucky statutory authority for new regulatory programs or other efforts intended to reduce greenhouse gas emissions for purposes of complying with or facilitating compliance with the provisions of the Kyoto Protocol;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall not promulgate administrative regulations or impose permit conditions on the emission of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride pursuant to the Kyoto Protocol for the purpose of reducing global warming until authorized by the General Assembly or by federal statute. The cabinet may promulgate administrative regulations or impose permit conditions on the emission of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride for any other reason authorized by this chapter or required under federal statute or administrative regulation, as long as the administrative regulations or permit conditions are not promulgated or imposed pursuant to the Kyoto Protocol.

(2) Nothing in this section shall be construed to limit or to impede state, local, or private participation in voluntary initiatives to reduce emissions of greenhouse gases, such as the United States Environmental Protection Agency's Green Lights program and the United States Department of Energy's climate change program.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

State Government: **SB 26**

Health and Welfare: **SB 95, SB 374**

Education: **SCR 126**

Licensing and Occupations: **SB 392**

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 205**, by Representative Coleman:

On page 7, following line 25, to insert the following:

"Section 7. KRS 405.021 is amended to read as follows:

(1) The Circuit Court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child ***or to any other person that the court finds has played a substantial and continuing role in the child's life and that the court determines would be in the best interest of the child. The court shall*** ~~[and]~~issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so. Once a grandparent has been granted visitation rights under this subsection, those rights shall not be adversely affected by the termination of parental rights

belonging to the grandparent's son or daughter, who is the father or mother of the child visited by the grandparent, unless the Circuit Court determines that it is in the best interest of the child to do so.

(2) The action shall be brought in Circuit Court in the county in which the child resides.

(3) The Circuit Court may grant noncustodial parental visitation rights to the grandparent of a child if the parent of the child who is the son or daughter of the grandparent is deceased and the grandparent has assumed the financial obligation of child support owed by the deceased parent, unless the court determines that the visitation is not in the best interest of the child. If visitation is not granted, the grandparent shall not be responsible for child support."

Floor Amendment No. 2 Title to **SB 205**, by Representative Coleman:

By amending the title to read as follows: AN ACT relating to child custody and visitation.

Calendar

SB 227, SB 337, SB 339, SB 343, SB 353, HR 134, SB 31, SB 151, SB 395, SJR 87, SB 304, SB 307, SB 58, SB 61, and **SB 121** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 121**, by Representative Stein:

On page 6, line 23, through page 7, line 17, to delete the new language; and

On page 7, line 19, by deleting "***(13)***" and removing the brackets and strikethroughs around the "(12)" "; and

On page 7, line 23, by deleting "***(14)***" and removing the brackets and strikethroughs around the "(13)" "; and

On page 7, line 25, by deleting "***(15)***" and removing the brackets and strikethroughs around the "(14)" "; and

On page 8, line 2, by deleting "***(16)***" and removing the brackets and strikethroughs around the "(15)" "; and

On page 8, line 4, by deleting "***(18)***" and removing the brackets and strikethroughs around the "(16)" "; and

On page 8, line 5, by deleting "***(18)***" and removing the brackets and strikethroughs around the "(17)" "; and

On page 8, line 7, by deleting "***(19)***" and removing the brackets and strikethroughs around the "(18)" "; and

On page 8, line 9, by deleting "***(20)***" and removing the brackets and strikethroughs around the "(19)" "; and

On page 8, line 11, by deleting "***(21)***" and removing the brackets and strikethroughs around the "(20)"; and

On page 8, line 14, by deleting "***(22)***" and removing the brackets and strikethroughs around the "(21)"; and

On page 8, line 17, by deleting "***(23)***" and removing the brackets and strikethroughs around the "(22)"; and

On page 8, line 20, by deleting "***(24)***" and removing the brackets and strikethroughs around the "(23)" ; and

On page 8, line 21, by deleting "***(25)***" and removing the brackets and strikethroughs around the "(24)"; and

On page 8, line 23, by deleting "***(26)***" and removing the brackets and strikethroughs around the "(25)"; and

On page 9, line 4, by deleting "***(27)***" and removing the brackets and strikethroughs around the "(26)"; and

On page 9, line 8, by deleting "***(28)***" and removing the brackets and strikethroughs around the "(27)"; and

On page 9, line 10, by deleting "***(29)***" and removing the brackets and strikethroughs around the "(28)"; and

On page 9, line 13, by deleting "***(30)***" and removing the brackets and strikethroughs around the "(29)"; and

On page 9, line 15, by deleting "***(31)***" and removing the brackets and strikethroughs around the "(30)"; and

On page 9, line 19, by deleting "***(32)***" and removing the brackets and strikethroughs around the "(31)".

Floor Amendment No. 2 to **SB 277**, by Representative Colter:

On page 1, line 3, by inserting "***(1)***" before "***Each***"; and

On page 1, after line 8, by adding the following:

"***(2) No school district or school shall be required to implement a recycling plan as described in subsection (1) of this section if it would cause a negative financial impact or consequences for the district or school.***"

Floor Amendment No. 17 to **SB 177**, by Representative Jenkins:

On page 19, after line 27, by adding the following section:

"SECTION 14. KRS CHAPTER 336A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 14 to 25 of this Act, unless the context requires otherwise:

(1) "Public employer" means the state or any political subdivision of the state, including a city of the first through fourth class, county, charter county, urban-county government, or special district;

(2) "Public employee" means a person holding a position by appointment or employment in the service of a public employer, except that public employee shall not include:

- *(a) A supervisory, confidential, or management employee as defined by the board;*
- *(b) An employee of the General Assembly or an employee of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;*
- *(c) A person who is a member of the organized militia while on active duty, or while acting in any capacity as a member of the organized militia;*
- *(d) A temporary, seasonal, or provisional employee as defined in KRS Chapter 18A.005;*
- *(e) A member of a board, authority or commission;*
- *(f) A certified employee of a school district;*
- *(g) An faculty employee of the postsecondary institution as defined in KRS 164.001; or*
- *(h) Any employee whose status is similar to any of the above described employees as determined by the board.*

(3) "Labor organization" means any chartered labor organization of any kind in which public employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment;

(4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of public employees in appropriate units or has been so recognized by the public employer;

(5) "Board" means the State Labor Relations Board;

(6) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(7) "Commissioner" means the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

SECTION 15. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Public employees shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the State Labor Relations Board as the representative of the majority of public employees in an appropriate unit or recognized by a public employer as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of the unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions set out in Sections 14 to 25 of this Act shall be responsible for representing the interest of all public employees in the unit without discrimination.

SECTION 16. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

The public employer and the labor organization as has been designated as exclusive representative of public employees in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively.

SECTION 17. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Public employers, their representatives or their agents are prohibited from:

- *(a) Interfering, restraining or coercing public employees in the exercise of the rights to bargain collectively;*
- *(b) Dominating or interfering with the formation, existence or administration of any labor organization;*
- *(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing Sections 14 to 25 of*

this Act, or in any other statute of this state, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of the employment or on the effective date of the agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition or complaint or given any information or testimony under Sections 14 to 25 of this Act;

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Public employees in the exercise of the right guaranteed in subsection (1) of Section 15 of this Act, and

2. A public employer in the selection of his or her representative for the purposes of collective bargaining or the adjustment of grievances;

(b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions set forth in Sections 14 to 25 of this Act as the exclusive representative of public employees in an appropriate unit.

(3) For purposes of Sections 14 to 25, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

SECTION 18. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Whenever in accordance with administrative regulations and as may be prescribed by the State Labor Relations Board a petition has been filed:

(a) By a public employee or group of public employees or any labor organization acting in behalf of thirty percent (30%) of the employees who have signed union affiliation cards and the union showing proof of representation:

1. Wish to be represented for collective bargaining by a labor organization as exclusive representative, or

2. Assert that the labor organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) By the public employer alleging that one (1) or more labor organizations has presented to it a claim to be recognized as a representative of the majority of public employees in an appropriate unit;

The board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the public employees desire to be represented and shall certify the result thereof.

(2) The board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed by Sections 14 to 25 of this Act, the unit appropriate for the purposes of collective bargaining, based on the factors as community of interest, wages, hours, and other working conditions of the public employees involved; the history of collective bargaining; and the desires of the public employees.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as exclusive representative of all the public employees in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by a public agency by mutual consent.

(5) No election shall be directed by the board in any bargaining unit where there is in force and effect a valid collective

bargaining agreement. Provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than three (3) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

SECTION 19. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Violations of the provisions of Sections 14 to 25 of this Act shall be deemed to be unfair labor practices remedial by the board in the following manner.

(1) Whenever it is charged by a public employer or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the board, or any hearing officer designated by the board, shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If upon the preponderance of the evidence presented the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring that person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of public employees with or without back pay, as will effectuate the policies of Sections 14 to 25 of this Act. The final order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the evidence presented the board is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the board shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his discharge. No final order of the board shall require the reinstatement of any individual who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the board at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the board may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

SECTION 20. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) If after a reasonable period, but in no event less than thirty (30) days, of negotiations over the terms of a new collective bargaining agreement or modifications in an existing agreement the parties to the negotiations are deadlocked, either party or the parties jointly may petition the board, by certified mail, return receipt requested, or by registered mail, to initiate fact finding.

(2) Upon receipt of a petition to initiate fact finding, the commissioner shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the commissioner is empowered to utilize his office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the commissioner's investigation, and if a settlement between the parties has still not been reached, the commissioner shall within five (5) days appoint a qualified and disinterested person as the impartial chairman of a three (3) man panel to function as the fact finders. In addition to the impartial chairman, the other two (2) members of the panel shall be one (1) member named by the labor organization and one (1) by the employer, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the employer is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact and recommendations for solution of the dispute. The panel shall cause all of its written findings, recommendations, and opinions to be served on the employer and labor organization (parties) and same shall be released to the public. Expenses incurred by the three (3) man panel in this section shall be paid by the parties involved in the labor dispute.

(5) The commissioner may adopt, promulgate, amend, and rescind the rules and regulations as he deems necessary and administratively feasible not inconsistent with the provisions of Sections 14 to 25 of this Act to carry out his responsibilities over the fact-finding procedures set forth in this section. However, unless the parties agree to extend the time for the hearings, they must be completed with recommendations from the fact-finding panel, within one hundred twenty (120) days from the date the petition to initiate the fact-finding procedure was received by the commissioner.

SECTION 21. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Except as hereinafter provided, when a labor organization has been designated in accordance with the provisions hereof as the exclusive representative of public employees in an appropriate unit, the chief executive officer of the political subdivision, whether elected or appointed, or his designated authorized representative or authorized representatives, shall represent the public employer in collective bargaining with the employee organization.

SECTION 22. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of Sections 14 to 25 of this Act and signed by the chief executive officer of the political subdivision or his representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a political subdivision and a labor organization provided by Sections 14 to 25 of this Act shall be the exclusive method of making a valid agreement for public employees represented by a labor organization.

(3) Suits for violation of agreements between a public employer and a labor organization representing public employees may be brought by the parties to the agreement in the Circuit Court of the county of the employer or in cases where the state is the employer in the Franklin Circuit Court.

SECTION 23. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Upon the written authorization of any public employees within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

SECTION 24. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a State Labor Relations Board to assist in resolving disputes between public employers and public employees or their labor organization which shall be composed of three (3) members appointed by the Governor, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. The Governor shall designate one (1) member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four (4) year terms by the Governor.

(2) Each member of the board shall have been an elector in this state for at least one (1) year next preceding his appointment. Any member may be removed by the Governor for cause, shown in an administrative hearing conducted in accordance with KRS Chapter 13B. The Governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid fifty dollars ($50) and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the Labor Relations Board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint employees necessary to carry out the work of the board. All files, records, and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by Sections 14 to 25 of this Act, the board may subpoena witnesses; issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence in any matter under inquiry; and administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the Circuit Court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring the person to appear before the board, any member, or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey a court order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing, or other process or notice of the board issued under the provisions of Sections 14 to 25 of this Act, with the exception of notice requirements for administrative hearings as provided in KRS Chapter 13B, may be served personally, by certified mail, return receipt requested or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making service and setting forth the manner of service is proof of service and a returned post-office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of Sections 14 to 25 of this Act may be served in the county in which the persons required to be served reside or may be found.

(7) The board shall, promulgate, amend, or repeal any administrative regulations necessary and administratively feasible to carry out the provisions of Sections 14 to 25 of this Act. Public hearings shall be held by the board, pursuant to KRS Chapter 13A, on any proposed administrative regulation of general applicability designed to implement, interpret, or prescribe policy, procedure, or practice requirements under the provisions of Sections 14 to

25 of this Act and on any proposed change in an existing administrative regulation.

(8) The board shall be attached to the Labor Cabinet for administrative purposes.

SECTION 25. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

No public employee shall engage in, and no public employee labor organization shall sponsor or condone any strike.

Section 26. Nothing in Sections 14 to 25 of this Act shall be interpreted or construed to nullify or void any collective bargaining agreement, contract, or memorandum or understanding between a public employer and its employees in effect on the effective date of Sections 14 to 25 of this Act."; and

On page 20, line 1, by renumbering "Section 14" as "Section 27"."

Orders of the Day

SB 54, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 54** be passed.

Representative Ford moved the adoption of Floor Amendment No. 1 to **SB 54**. On the roll call on Floor Amendment No. 1 to **SB 54** the vote was: Yeas 36, Nays 44 (See March 20, 1998, roll call on **SB 54** - Appendix.) Floor Amendment No. 1 to **SB 54** was rejected.

On the roll call on the passage of **SB 54** the vote was: Yeas 80, Nays 6 (See March 20, 1998 roll call on **SB 54** - Appendix.) **SB 54** was passed and the title agreed to. Representative Geveden moved that the vote by which **SB 54** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 44, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **SB 44** be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 20, 1998 roll call on **SB 44** - Appendix.) **SB 44** was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 44** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 45, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Committee Amendment No. 1 to **SB 45**. Agreed.

Representative A. Arnold moved that **SB 45**, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 21 (See March 20, 1998 roll call on **SB 45** - Appendix.) **SB 45**, as amended, was passed. Representative A. Arnold moved the adoption of Committee Amendment No. 2 Title to **SB 45**. Agreed; and the title was agreed to. Representative A. Arnold moved that the vote by which **SB 45**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 339**, by Representative Long:

On page 4, line 14, by deleting "***KRS 393.280***" and inserting in lieu thereof "***Section 2 of this Act***"; and

On page 6, after line 20, but before line 21, by inserting the following:

"Section 6. KRS 393.110 is amended to read as follows:

(1) ***A holder of property presumed abandoned shall make an annual report to the department concerning the property. The report shall be filed on or before November 1 of each year and shall cover the twelve (12) months ending on July 1 of that year. All property so reported shall be turned over by November 1 to the department. The report shall be verified and*** ~~[Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the department with respect to the property annually as of July 1. The report shall be filed in the office of the department on or before August 1 of each year for the preceding July 1. The report]~~ shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of one hundred dollars ($100) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the department prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days this copy on the courthouse door or the courthouse bulletin board, and also to publish the copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of one hundred dollars ($100) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the department the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and the posting and publishing shall be constructive notice to all interested parties.

(2) ***The holder of property presumed abandoned shall send written notice to the apparent owner, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section*** [~~Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the department shall mail notice to each person having an address listed in the report who appears to be entitled to property presumed abandoned under this chapter; except the department shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is one hundred dollars ($100) or less~~]. The notice shall contain:

(a) A statement that according to a report filed with the department properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, by ***November 1*** [~~January 1~~] of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut the presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding the property shall be under no duty while the action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of the action.

(4) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all the property within the jurisdiction of the court in which the action is brought if the property of different persons is set out in separate paragraphs.

Section 7. KRS 393.140 is amended to read as follows:

(1) Any person claiming an interest in any property paid or surrendered to the state in accordance with KRS 393.020 to 393.050 who was not actually served with notice, and who did not appear, and whose claim was not considered during the action or at the proceedings that resulted in its payment to the state, may, within five (5) years after the judgment, file his claim to the property with the department.

(2) Any person claiming an interest in any estate or property paid or surrendered to the state in accordance with KRS 393.060 to 393.120, that was not subsequently adjudged under the procedure set out in KRS 393.230 to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee, or other person entitled under the laws of this state relating to wills, descent, and distribution to take the legal or equitable title, may file his claim to it at any time after it was paid to this state.

[~~(3) Any claimant that is an heir or a relative to the original owner shall, within fifteen (15) days after filing any claim permitted under this section in excess of one hundred dollars ($100), publish notice of the claim pursuant to KRS Chapter 424 in the county in which the property was held before being transferred to the state. If the claim is for one hundred dollars ($100) or less, the claimant shall post at the courthouse door and three (3) other conspicuous places in that county, and shall file proof of publication or posted notice with the department. No claim shall be allowed until fifteen (15) days after proof of the notice is received by the department.~~]

SECTION 8. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the department, within three (3) years of the receipt of abandoned property, may sell it to the highest bidder at a public sale at a location in the state which, in the judgment of the department, affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department need not offer the property for sale if the department considers that the probable cost of sale will exceed the proceeds of the sale. At least three (3) weeks prior to a sale conducted under this section, the department shall publish a notice of the sale in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the department. If securities are sold by the department before the expiration of three (3) years after their delivery to the department, a person making a claim under this chapter before the end of the three (3) year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this chapter after the expiration of the three (3) year period is entitled to receive the securities delivered to the department by the holder, if they still remain in the custody of the department, or the net proceeds received from the sale, and is not entitled to receive any appreciation in the value of the property occurring after the delivery to the department, except in the case of intentional misconduct or malfeasance by the department.

(3) A purchaser of property at a sale conducted by the department pursuant to this chapter takes property free of all claims of the owner or previous holder and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

On page 6, line 21, by deleting "6" and inserting in lieu thereof "9".

Floor Amendment No. 1 to **SB 163**, by Representative Barrows:

On page 1, line 1, after "Section 1." by inserting the following:

"KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(z) Employees of the Kentucky Peace Corps; ~~[and]~~

(aa) Employees of the Council on Postsecondary Education***; and***

(bb) Employees of the Kentucky Higher Education Assistance Authority under Section 2 of this Act, which shall have sole authority over the exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the

roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 1. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the president of the Council on Postsecondary Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

   (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

   (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

   (a) ***Subject only to the availability of funds from any source,*** appoint such officers and employees as necessary***, prescribe their duties,*** and ~~[may]~~ fix their compensation ***without limitation of the provisions of KRS Chapter 18A and KRS 64.640, except employees hired prior to the effective date of this Act who do not elect in writing to be excluded shall remain subject to KRS Chapter 18A and KRS 64.640, provided that compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480***~~[, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents]~~; and

   (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 3. KRS 164.760 is amended to read as follows:

The authority shall be subject to the supervision and examination of the Department of Financial Institutions (or any successor), but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination. The authority shall file an annual audited financial report with the Governor ***and with the Legislative Research Commission*** within ninety (90) days after the close of the fiscal year. The annual audit shall be made by an independent certified public accountant. The annual audited financial report shall include but may not be limited to the financial condition of the authority as of the end of the fiscal year and the revenues and expenditures for the fiscal year. The fiscal year shall be from July 1 through June 30.

Section 4.".

Floor Amendment No. 1 to **SB 343**, by Representative Riggs:

On page 1, line 13 by deleting "***ten thousand dollars ($10,000)***" and inserting in lieu thereof "***one thousand dollars ($1,000)***".

Orders of the Day (Continued)

SB 13, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the House Committee Substitute to **SB 13**. Agreed. Representative Thomas moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 13**. Agreed.

Representative Thomas moved that **SB 13**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 20, 1998 roll call on **SB 13** - Appendix.) **SB 13**, by way of House Committee Substitute as amended, was passed. Representative Thomas moved the adoption of Floor Amendment No. 3 Title to **SB 13**. Agreed; and the title was agreed to. Representative Thomas moved that the vote by which **SB 13**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 28** be placed back in the Orders of the Day and to retain its position. Agreed.

SJR 76, with House Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of the House Committee Substitute to **SJR 76**. Agreed. Representative Zimmerman moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SJR 76**. Agreed.

Representative Zimmerman moved that **SJR 76**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 20, 1998 roll call on **SJR 76** - Appendix.) **SJR 76**, by way of House Committee Substitute, was passed. Representative Zimmerman moved the adoption of Committee Amendment No. 1 Title to the House Committee Substitute to **SJR 76**. Agreed; and the title was agreed to. Representative Zimmerman moved that the vote by which **SJR 76**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **SB 126** be passed.

On the roll call the vote was: Yeas 82, Nays 0 (See March 20, 1998 roll call on **SB 126** - Appendix.) **SB 126** was passed and the title agreed to. Representative Nunn moved that the vote by which **SB 126** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 735** be recommitted to Appropriations and Revenue. Agreed.

Representative Stumbo moved that the following Bills and Resolutions in the Regular Orders of the Day be recommitted to Appropriations and Revenue: **HB 236, HB 252, HB 254, HB 324, HB 335, HB 353, HB 395, HB 420, HB 480, HB 483, HB 561, HB 569, HB 616, HB 674, HB 681, HB 863, HB 882, HB 886, HCR 81** and **HCR 124**. Agreed.

Representative Stumbo moved that the following Bill laid on the Clerk's Desk be recommitted to Appropriations and Revenue: **HB 254**. Agreed.

Representative Stumbo moved that the following Bill tabled be recommitted to Appropriations and Revenue: **HB 561.** Agreed.

Representative Stumbo moved that the posting be waived on **SB 95** and **SB 374**. Agreed.

Representative Stumbo moved that the rules be suspended that when the House does adjourn today, it does so by voice vote. Agreed. Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so until 4:00 p.m., March 23, 1998. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **SB 361, SB 390, SB 430**

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 179**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Powell County Middle School as an exemplary educational institution dedicated to the academic success of its students. The students and teachers of Powell County Middle School are commended for their enthusiastic pursuit of knowledge and understanding of the legislative process. The members of this distinguished body are indeed pleased to join Representative Adrian Arnold in extending highest regards to these outstanding young citizens and in welcoming them to the Chambers of the Kentucky House of Representatives. **Legislative Citation No. 179** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 181**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Shelby County High School upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join Representative Marshall Long in welcoming the group members of Shelby County High School to the House Chambers and in wishing them success in all future academic endeavors. **Legislative Citation No. 181** was adopted without objection.

Representative Stacy moved the adoption of the following **Legislative Citation No. 180**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Rowan County High School Speech Team for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts in this venture. The members of the Kentucky House of Representatives are pleased to join with Representative John Will Stacy in applauding the initiative of the Rowan County High School Speech Team and in extending a welcoming hand to them as they join to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 180** was adopted without objection.

Representative Scott moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cleo Chadwell.

With deepest respect, we pay homage and tribute to Cleo Chadwell, and we pause in silent reverence for his eternal soul.

WHEREAS, Cleo Chadwell was born in Casey County, Kentucky, on July 3, 1911, the loving son of the late James and Mary Elizabeth Sprolls Chadwell, and traversed these earthly bounds on March 15, 1998; and

WHEREAS, Cleo Chadwell was the devoted husband of Polly Ellen Luttrell Chadwell; the adored father of Dolly Mae Black of Bargersville, Indiana; the cherished father of Doris Edens of Liberty, Kentucky; the beloved father of Mary Ballard of Frankfort, Kentucky; the loving father of Sue Hensley of Frankfort, Kentucky; the revered father of June Forbes of Lexington, Kentucky; the esteemed father of Jack Chadwell of Windsor, Kentucky; the distinguished father of James Garfield Chadwell of Whitesburg, Kentucky; and the dearest father of Bill Chadwell of Franklin, Indiana; and

WHEREAS, Cleo Chadwell was the proud grandfather of seventeen grandchildren; the proud great grandfather of twelve great grandchildren; and the honorable brother of Cordie Riddle of Huntington, Indiana; and

WHEREAS, Cleo Chadwell was preceded in death by his son, Charles Chadwell, and seven brothers: Oliver Chadwell, Bill Chadwell, Garret Chadwell, John Chadwell, Doc Chadwell, Dave Chadwell, and Sam Chadwell; and

WHEREAS, Cleo Chadwell was a noble farmer of the land; a retired employee of the Kentucky School for the Deaf; and a member of the South Fork Baptist Church; and

WHEREAS, the passing of Cleo Chadwell has left a void that will be difficult to fill, and he is mourned across the length and breath of the Commonwealth of Kentucky;

WHEREAS,

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Cleo Chadwell, and extends to his family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Cleo Chadwell.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Polly Ellen Luttrell Chadwell, 569 Kentucky Highway 80, Windsor, Kentucky 42565 and Sue Hensley of the Licensing and Occupations Committee of the Legislative Research Commission.

There being no objection **HR 138** was adopted.

Representative Stacy moved the adoption of the following **Legislative Citation No. 183**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Rowan County High School for the exemplary effort put forth in promoting the educational success of the students of Rowan County. Inasmuch as the development of high caliber citizens who are prepared to meet the challenges of tomorrow is indeed noteworthy, this fine institution is applauded for its role in forming the future leaders of this great Commonwealth. The members of this distinguished body are pleased to join Representative John Will Stacy in graciously welcoming the students of Rowan County High School to today's session of the Kentucky House of Representatives. **Legislative Citation No. 183** was adopted without objection.

Representative Callahan moved the adoption of the following **Legislative Citation No. 182**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Cheryl Jenkins Walters upon her 40th Birthday In celebration of this memorable event the entire membership is pleased to join Representative Jim Callahan in honoring this Montgomery, Alabama native and long-time resident of Versailles, Kentucky, who has spent half her life as a valued employee of the Legislative Research Commission. Cheryl Walters, wife of John Walters, mother of Garrett and Abby, daughter of Bennie and Verna Jenkins, and sister of Alice Lawson, is commended today for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body hereby extends, along with her colleagues at LRC, best wishes for a delightful 40th birthday. **Legislative Citation No. 182** was adopted without objection.

Representative Rader moved the adoption of the following **HR 137**:

HR 137, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul Edward Hieronymus.

With deepest respect and admiration, we pay homage and tribute to Paul Edward Hieronymus.

WHEREAS, Paul Edward Hieronymus was born on May 22, 1942, a native of Danville, Boyle County, Kentucky, and longtime resident of McKee, Jackson County, Kentucky, and he traversed these earthly bounds on March 8, 1998; and

WHEREAS, Paul Edward Hieronymus was the adored son of C. Jerome Hieronymus and the late Anna May Jackson; he was the devoted husband of Margie Campbell Hieronymus; and he was the proud father of a daughter, Elizabeth Ann Norris, a son, Paul Edward Hieronymus, Jr., and a step-son, Roger Bill; and

WHEREAS, Paul Edward Hieronymus graduated from Camargo High School in 1959; he received a bachelor's degree from Union College in Barbourville, graduating magna cum laude; he graduated from the University of Kentucky School of Law in 1965, and while in law school, he was a member of the school's Law Journal staff both years he attended; and he was the recipient of the Order of the Coif for his outstanding achievements at the School of Law; and

WHEREAS, Paul Edward Hieronymus was in private law practice in McKee where he was held in high esteem by his peers; he was elected Commonwealth's Attorney, and served his constituents with pride from the forty-first Judicial District from 1970 through 1983; and

WHEREAS, Paul Edward Hieronymus was a private pilot who enjoyed flying during his leisure time; he also will be remembered for his wonderful sense of humor, which he demonstrated daily throughout his life, and for his gift of storytelling; and

WHEREAS, all who knew and admired Paul Edward Hieronymus will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby expresses its profound sense of sorrow upon the passing of Paul Edward Hieronymus, and it extends to his family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Paul Edward Hieronymus brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Paul Edward Hieronymus.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Margie Campbell Hieronymus, P.O. Box 69, McKee, Kentucky 40447.

There being no objection **HR 137** was adopted.

Representative Long moved that the rules be suspended to withdraw Floor Amendment No. 1 to **SB 339**. Agreed.

Senate Message (Continued)

Announcing passage of **SB 376**. Message received on **HB 52**: The Senate has passed **HB 52** with Senate Floor Amendment No. 8 and Senate Floor Amendment No. 7 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 250**: The Senate has passed **HB 250** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 671**: The Senate has passed **HB 671** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 10:50 a.m.)

Motions, Petitions and Communications (Continued)

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 1 to **SB 146**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Sims moved that she be recorded as voting "yea" on **SB 126**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that his vote be changed from "yea" to "nay" on **HB 667**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stacy moved that he be recorded as voting "yea" on **SB 54**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Arnold moved that he be recorded as voting "yea" on **SB 126**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 667**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on Floor Amendment No. 1 to **SB 54**, "yea" on **SB 44** and **SB 54**, and "nay" on **SB 45**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 146**, by Representative Riner:

On page 3, below line 18, to insert the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any person under the age of eighteen (18) years who repeatedly smokes, in a single course of conduct, cigars or cigarettes or repeatedly uses, in a single course of conduct, any other tobacco product shall be sentenced to not more than eight (8) hours of community service for each offense. The offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court. If a child fails to appear in court in response to a uniform citation issued pursuant to paragraph (b) of this subsection, the court may compel attendance of the defendant in the manner specified by law. The court trying the case may remit a portion of the penalty for violation of this paragraph upon disclosure by the defendant of the name of the person from whom he or she obtained the cigar, cigarette, or other tobacco product.

(b) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest or take a child into custody, for a violation of paragraph (a) of this subsection. If the citation-issuing peace officer or employee of the department receives information from the person cited as to where the cigar, cigarette, or other tobacco product was obtained, the officer or employee may communicate that information to the county attorney."

Floor Amendment No. 2 to **SB 121**, by Representative Jordan:

On page 6, line 27, after "***a***" by inserting " ***serious emotional harm or a***"; and
On page 7, line 3, after "***a***" by inserting "***serious emotional harm or a***".

Floor Amendment No. 1 to the House Committee Substitute to **SB 21**, by Representative Cave:

On page 14, line 26, after "***(5)***", by inserting the following:

"***No officer or employee of the corporation, lottery retailer, or any supplier of goods and services to the corporation, shall engage in any activity to promote the sale of lottery tickets by advertising, marketing, publishing, or by written communication, that net lottery revenues are credited to the Wallace G. Wilkinson Commonwealth merit scholarship trust fund, the College Access Program, or the Kentucky Tuition Grants Program to provide scholarships and financial assistance to eligible students attending postsecondary education institutions in the Commonwealth, or to the literacy development grant program to promote literacy throughout the Commonwealth. The corporation shall inform all appropriate parties and take all reasonable measures to guarantee compliance with this provision.***

(6)".

Floor Amendment No. 2 to the House Committee Substitute to **SB 21**, by Representative Cave:

By amending the title to read as follows: "AN ACT relating to postsecondary education and making an appropriation.".

Floor Amendment No. 3 to the House Committee Substitute to **SB 21**, by Representative Cave:

On page 18, after line 22, by inserting the following:

"Section 11. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions;

officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(z) Employees of the Kentucky Peace Corps; ~~[and]~~

(aa) Employees of the Council on Postsecondary Education***; and***

(bb) Employees of the Kentucky Higher Education Assistance Authority under Section 13 of this Act, which shall have sole authority over the exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 12. KRS 164A.080 is amended to read as follows:

(1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding ***nine hundred fifty million dollars ($950,000,000)***~~[five hundred fifty-three million dollars ($553,000,000)]~~ in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made

redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.

(3) (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.

(b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

Section 13. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the president of the Council on Postsecondary Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) ***Subject only to the availability of funds from any source,*** appoint such officers and employees as necessary***,*** ***prescribe their duties,*** and [~~may~~] fix their compensation ***without limitation of the provisions of KRS Chapter 18A and KRS 64.640, except that employees hired prior to the effective date of this Act who do not elect in writing to be excluded shall remain subject to KRS Chapter 18A and KRS 64.640, but compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480***[~~, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents~~]; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 14. KRS 164.760 is amended to read as follows:

The authority shall be subject to the supervision and examination of the Department of Financial Institutions (or any successor), but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination. The authority shall file an annual audited financial report with the Governor ***and with the Legislative Research Commission*** within ninety (90) days after the close of the fiscal year. The annual audit shall be made by an independent certified public accountant. The annual audited financial report shall include but may not be limited to the financial condition of the authority as of the end of the fiscal year and the revenues and expenditures for the fiscal year. The fiscal year shall be from July 1 through June 30.

Section 15. KRS 164.764 is amended to read as follows:

(1) All moneys and property received by the authority for purposes prescribed in KRS 164.740 to 164.764 are hereby ***continuously*** appropriated to the authority for use as prescribed herein. State moneys appropriated that are not spent at the end of the fiscal year shall not lapse.

(2) Except as provided in KRS Chapter 7A, KRS 45.550 to 45.640, KRS 45.750 to 45.810, and KRS Chapter 164, the authority shall have sole authority and discretion, subject only to the federal act and administrative regulations promulgated by the secretary, over the receipt, control, and expenditure of funds and the acquisition, control, and disposal of property by the authority related to administration of the insured student loan program in accordance with the federal act and shall be exempt from any generally applicable provisions of state law pertaining to the deposit, investment, appropriation or allotment, and expenditure or disposal of those funds or property. The authority shall establish and assign in trust to a corporate trustee a special fund that shall be a revolving trust and agency account and shall deposit to that account funds received by the authority in accordance with this subsection. The authority shall annually file with the Legislative Research Commission an operating budget of funds described in this subsection. Personal service contracts related to administration of the insured student loan program shall be filed with the Personal Service Contract Review Subcommittee of the Legislative Research Commission for informational purposes.

(3) Except as provided in subsection (2) of this section, expenditures by the authority shall be subject to appropriation by the General Assembly.".

Floor Amendment No. 3 to **SB 121**, by Representative Stein:

On page 2, line 10, following the word "***abortion***" to insert "***unless there is a risk of serious harm to the mother***"

Floor Amendment No. 4 to **SB 121**, by Representative Stein:

On page 2, line 10, following the word "***abortion***" to insert "***unless there is a fetal anomaly***"

Floor Amendment No. 5 to **SB 121**, by Representative Stein:

On page 2, line 10, following the word "***abortion***" to insert "***unless there is a fetal anomaly or risk of serious harm to the mother***"

Floor Amendment No. 6 to **SB 121**, by Representative Stein:

On page 2, line 10, following the word "***abortion***" to insert "***unless the mother's life is endangered by a physical disorder, illness, or injury***"

Floor Amendment No. 7 to **SB 121**, by Representative Stein:

On page 2, line 10 to insert a "*(1)*" at the beginning of the line; and

On page 2, line 10, following the word "***abortion***" to insert the following:

"***unless the pregnant woman who requests the partial-birth abortion elects to petition any Circuit or District Court of the Commonwealth to obtain an order granting consent to the abortion.***

(2) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the mother suffers from a serious health risk;

(b) Granting the petition for an abortion if the court finds that the fetus has a severe fetal anomaly; or

(c) Denying the petition.

(3) Any woman shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(4) The Supreme Court is respectfully requested to promulgate any rules or regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.".

Floor Amendment No. 8 to **SB 121**, by Representative Stein:

On page 1, line 17, after "***abortion***" by inserting "***, performed after twenty-four (24) weeks' gestation,***"

Floor Amendment No. 9 to **SB 121**, by Representative Stein:

On page 2, line 10, following the word "***abortion***" to insert "***unless the pregnancy has resulted from an incident of rape or incest***"

Announcements

The following meetings were announced:

Licensing and Occupations, Noon, March 24, 1998.

Health and Welfare, Room 131, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 23, 1998.

The motion that the House adjourn until 4:00 p.m., March 23, 1998 was adopted by voice vote.

MONDAY, MARCH 23, 1998

FIFTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Church of the Good Shepherd, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative D. Graham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 20, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Johns moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Johns moved the adoption of the following **Legislative Citation No. 184**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Olivia Faulkner Kirtley of the American Institute of Certified Public Accountants upon being elected to serve as the Chairman of the Board of Directors of the AICPA. A native of Campbellsville, Kentucky, and current Chief Financial Officer of Vermont American Corporation, Olivia Faulkner Kirtley has brought tremendous pride and honor to herself, the CPA profession and this great Commonwealth by being the first woman to ever be elected to this prestigious position. Inasmuch as this accomplishment represents extraordinary dedication and commitment to the advancement of her profession and the AICPA, the entire membership of this honorable body is pleased to join Representative Susan Johns in commending this outstanding Kentuckian and in extending sincere best wishes as she represents the America CPA profession throughout the United States and the world. **Legislative Citation No. 184** was adopted without objection.

Senate Message

Announcing passage of **SB 53** and **HB 426**. Message received on **HB 63**: The Senate has passed **HB 63** by way of Senate Committee Substitute and Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Introduction of Resolutions

HR 140, by Representative D. Butler: A RESOLUTION declaring July 11, 1998, as Iroquois Amphitheater Sixtieth Anniversary Celebration Day.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 370**

Judiciary: **SB 376**

State Government: **SB 438**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 139**

Floor Amendments

Floor Amendment No. 10 to **SB 121**, by Representative Stein:

On page 1, line 18, to delete "*living*" and insert "*viable*"in lieu thereof; and

On page 1, line 20, to delete "*living*" and insert "*viable*"in lieu thereof; and

On page 1, line 21, to delete "*living*" and insert "*viable*"in lieu thereof.

Floor Amendment No. 11 to **SB 121**, by Representative Stein:

On page 6, line 23, through page 7, line 14, to delete the new language; and

On page 7, line 15, by deleting the "*(c)*".

Report of Committees

The Committee on Health and Welfare reported **SB 95**, **SB 128**, with Committee Substitute attached thereto, **SB 145**, and **SB 374** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 95, AN ACT relating to child welfare.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

Prior to the placement of a child in a foster home operated or approved by the cabinet or the return of an abused or neglected child to the home of the parent, the Department for Social Services, in cooperation with the Department of State Police, shall compare the names of all persons residing in the foster home or home of the parent against the Law Information Network Kentucky (LINK) and the National Crime Information Center's (NCIC) computerized listing of data files including, but not limited to, the criminal history file, domestic violence file, and sex offender file; however, there shall be no duty to check the NCIC's data files if the NCIC refuses access.

SB 128, AN ACT relating to children's health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

(1) All citizens of the Commonwealth should have access to affordable health care; and

(2) It is estimated by the Legislative Research Commission that one hundred twenty-five thousand (125,000) children in the Commonwealth have no health insurance coverage; and

(3) Of the estimated one hundred twenty-five thousand (125,000) uninsured children in the Commonwealth, ninety-one thousand two hundred fifty (91,250) fall at or below two hundred percent (200%) of the federal poverty level; and

(4) Uninsured children are of particular concern because of their need for preventative and primary care to develop into healthy adulthood; and

(5) Measures not taken now to provide care for uninsured children will result in higher human and financial costs due to the development of more severe conditions; and

(6) Eligible children in this Commonwealth should have access to cost-effective, primary health care programs if they or their parents are unable to afford it on their own; and

(7) It is in the interest of the citizens of the Commonwealth for the General Assembly to foster the development of a children's health insurance program designed to provide basic services to eligible children at minimum cost.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

There is hereby created within the Cabinet for Human Resources the Kentucky Children's Health Insurance Program for the purposes of:

(1) Providing health care coverage and other coordinated services to children through the age of eighteen (18) years at or below two hundred percent (200%) of the federal poverty level and who are not otherwise eligible for health insurance coverage; and

(2) Providing Medicaid coverage for children between the ages of fourteen (14) and eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall prepare a state child health plan meeting the requirements of Title XXI of the federal Social Security Act, for submission to the Secretary of the United States Department of Health and Human Services within such time as will permit the state to receive the maximum amounts of federal matching funds available under Title XXI. The cabinet shall by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

(a) The eligibility criteria for children covered by the Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v as amended, shall be eligible for services under the Children's Health Insurance Program except to the extent that Title XIX coverage is expanded by Sections 1 to 7 and Section 8 of this Act;

(b) The schedule of benefits to be covered by the Children's Health Insurance Program, which shall include preventive services, vision services including glasses, and dental services including at least sealants, extractions, and fillings, and which shall be at least equivalent to one (1) of the following:

1. The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by U.S.C. sec. 8903(1);

2. A health benefit coverage plan that is offered and generally available to state employees; or

3. Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;

(c) The premium contribution per family of health insurance coverage available under the Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions shall be based on a six (6) month period not to exceed:

1. Ten dollars ($10), to be paid by a family with income between one hundred percent (100%) to one hundred thirty-three percent (133%) of the federal poverty level;

2. Twenty dollars ($20), to be paid by a family with income between one hundred thirty-four percent (134%) to one hundred forty-nine percent (149%) of the federal poverty level; and

3. One hundred twenty dollars ($120), to be paid by a family with income between one hundred fifty percent (150%) to two hundred percent (200%) of the federal poverty level, and which may be made on a partial payment plan;

(d) The level of copayments for services provided under the Children's Health Insurance Program that shall not exceed those allowed by federal law; and

(e) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage. The criteria shall be set forth in administrative regulations under KRS Chapter 13A and shall maximize competition among the providers and insurers. The Cabinet for Finance and Administration shall provide oversight over contracting policies and procedures to assure that the number of applicants for contracts is maximized.

(2) Within twelve (12) months of federal approval of the state's Title XXI child health plan, the Cabinet for Human Resources shall assure that a KCHIP program is available to all eligible children in all regions of the state. If necessary, in order to meet this assurance, the cabinet shall institute its own program.

(3) KCHIP recipients shall have direct access without a referral from any gatekeeper primary care provider to dentists for covered primary dental services and optometrists and opthalmologists for covered primary eye and vision services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) A "Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.

(2) The Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Children's Health Insurance Program trust fund account.

(3) The secretary of the Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Children's Health Insurance Program shall be administered by the Cabinet for Human Resources in terms of conducting eligibility determination and providing oversight over outreach services, enrollment, and claims payment.

(2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a structure for quality assurance and utilization review under Sections 1 to 7 and Section 8 of this Act.

(3) The Children's Health Insurance Program shall collect, analyze, and publicly disseminate comprehensive data on the number of children enrolled in the program, services received through the program, and the effect on health outcomes of children served by the program including the special health needs of minority children. The information collected by the program shall be subject to KRS 216.2927(1). The program shall have access to all data collected by the cabinet under KRS 216.2920 to 216.2929 and shall coordinate program data collection efforts with the data collection efforts of the cabinet under KRS 216.2920 to 216.2929.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of the effective date of this Act, the Governor shall appoint a seven (7) member advisory council to the Kentucky Children's Health Insurance Program to make recommendations on the implementation of Sections 1 to 7 and Section 8 of this Act. The appointed members shall serve at the pleasure of the Governor and shall be representative of health care providers, families with children eligible for services under Sections 1 to 7 and Section 8 of this Act and child advocacy groups.

(2) Staff services for the advisory council shall be provided by the Cabinet for Human Resources.

SECTION 7. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 and Section 8 of this Act shall be known as the Kentucky Children's Health Insurance Program Act.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In no event shall more than ten percent (10%) of federal and state funds allocated to the Kentucky Children's Health Insurance Program be used for:

(a) Children's health programs other than those targeted for low-income children as defined under Title XXI of the federal Social Security Act;

(b) Initiatives for improving the health of children except those low income children as defined under Title XXI of the federal Social Security Act or an approved Title XXI state plan (KCHIP);

(c) Outreach activities that inform families of children who are likely to be eligible for this program or other public or private health coverage programs allowed by the federal Social Security Act; and

(d) Other reasonable costs incurred by the state to administer the program.

(2) The department shall use the insurer's or health maintenance organization's sales and marketing methods and may include the use of agents and payment of commissions, to inform families of the availability of the Kentucky Children's Health Insurance Program and assist them in obtaining coverage for children under the program.

Section 9. Whereas it is critical to meet the needs of children not otherwise eligible for health care except through the opportunities presented by Title XXI of the Social Security Act and the Kentucky Children's Health Insurance Program, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute to **SB 128** is as follows:

AN ACT relating to children's health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

(1) All citizens of the Commonwealth should have access to affordable health care; and

(2) It is estimated by the Legislative Research Commission that one hundred twenty-five thousand (125,000) children in the Commonwealth have no health insurance coverage; and

(3) Of the estimated one hundred twenty-five thousand (125,000) uninsured children in the Commonwealth, ninety-one thousand two hundred fifty (91,250) fall at or below two hundred percent (200%) of the federal poverty level; and

(4) Uninsured children are of particular concern because of their need for preventative and primary care to develop into healthy adulthood; and

(5) Measures not taken now to provide care for uninsured children will result in higher human and financial costs due

to the development of more severe conditions; and

(6) Eligible children in this Commonwealth should have access to cost-effective, primary health care programs if they or their parents are unable to afford it on their own; and

(7) It is in the interest of the citizens of the Commonwealth for the General Assembly to foster the development of a children's health insurance program designed to provide basic services to eligible children at minimum cost.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

There is hereby created within the Cabinet for Human Resources the Kentucky Children's Health Insurance Program for the purposes of:

(1) Providing health care coverage and other coordinated services to children through the age of eighteen (18) years at or below two hundred percent (200%) of the federal poverty level and who are not otherwise eligible for health insurance coverage through either expansions of Medicaid services under Title XIX of the federal Social Security Act and through the provision of a separate health insurance program under Title XXI of the federal Social Security Act, or a combination of Medicaid program expansions and use of a separate health insurance program; and

(2) Providing Medicaid coverage for children between the ages of fourteen (14) and eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall prepare a state child health plan meeting the requirements of Title XXI of the federal Social Security Act, for submission to the Secretary of the United States Department of Health and Human Services within such time as will permit the state to receive the maximum amounts of federal matching funds available under Title XXI. The cabinet shall by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

(a) The eligibility criteria for children covered by the Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v as amended, shall be eligible for services under the Children's Health Insurance Program except to the extent that Title XIX coverage is expanded by Sections 1 to 7 and Section 8 of this Act;

(b) The schedule of benefits to be covered by the Children's Health Insurance Program, which shall include preventive services, vision services including glasses, and dental services including at least sealants, extractions, and fillings, and which shall be at least equivalent to one (1) of the following:

1. The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by U.S.C. sec. 8903(1);

2. A mid-range health benefit coverage plan that is offered and generally available to state employees; or

3. Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;

(c) The premium contribution per family of health insurance coverage available under the Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions shall be based on a six (6) month period not to exceed:

1. Ten dollars ($10), to be paid by a family with income between one hundred percent (100%) to one hundred thirty-three percent (133%) of the federal poverty level;

2. Twenty dollars ($20), to be paid by a family with income between one hundred thirty-four percent (134%) to one hundred forty-nine percent (149%) of the federal poverty level; and

3. One hundred twenty dollars ($120), to be paid by a family with income between one hundred fifty percent (150%) to two hundred percent (200%) of the federal poverty level, and which may be made on a partial payment plan of twenty dollars ($20) per month or sixty dollars ($60) per quarter;

(d) The level of copayments for services provided under the Children's Health Insurance Program that shall not exceed those allowed by federal law; and

(e) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage. However, the cabinet shall provide, in any contracting process for the preventive health insurance program, the opportunity for a public health department to bid on preventive health services to eligible children within the public health department's service area. A public health department shall not be disqualified from bidding because the department does not currently offer all the services required by paragraph (b) of this subsection. The criteria shall be set forth in administrative regulations under KRS Chapter 13A and shall maximize competition among the providers and insurers. The Cabinet for Finance and Administration shall provide oversight over contracting policies and procedures to

assure that the number of applicants for contracts is maximized.

(2) Within twelve (12) months of federal approval of the state's Title XXI child health plan, the Cabinet for Human Resources shall assure that a KCHIP program is available to all eligible children in all regions of the state. If necessary, in order to meet this assurance, the cabinet shall institute its own program.

(3) KCHIP recipients shall have direct access without a referral from any gatekeeper primary care provider to dentists for covered primary dental services and to optometrists and ophthalmologists for covered primary eye and vision services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) A "Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.

(2) The Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Children's Health Insurance Program trust fund account.

(3) The secretary of the Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.

(4) In administering the Children's Health Insurance Program, the administrative costs under the program shall be limited to no more than ten percent (10%) of applicable program costs.

(5) Notwithstanding the provisions of KRS 205.6336, the trust fund shall administer any savings from the implementation of the cabinet's Children's Health Insurance Program through managed care and shall use those savings to provide state matching funds for any enhanced federal funds available under Title XXI of the federal Social Security Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Children's Health Insurance Program shall be administered by the Cabinet for Human Resources in terms of conducting eligibility determination and providing oversight over enrollment and claims payment.

(2) The program shall include a system of outreach and referral for children who may be eligible for the Children's Health Insurance Program. The program shall work with the Department for Medicaid Services, the Department for Social Insurance, schools, pediatricians, public health departments, and other entities interested in the health of children in developing the system of outreach and referral.

(3) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a structure for quality assurance and utilization review under Sections 1 to 7 and Section 8 of this Act.

(4) The Children's Health Insurance Program shall collect, analyze, and publicly disseminate comprehensive data on the number of children enrolled in the program, services received through the program, and the effect on health outcomes of children served by the program including the special health needs of minority children. The information collected by the program shall be subject to KRS 216.2927(1). The program shall have access to all data collected by the cabinet under KRS 216.2920 to 216.2929 and shall coordinate program data collection efforts with the data collection efforts of the cabinet under KRS 216.2920 to 216.2929.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of the effective date of this Act, the Governor shall appoint a seven (7) member advisory council to the Kentucky Children's Health Insurance Program to make recommendations on the implementation of Sections 1 to 7 and Section 8 of this Act. The appointed members shall serve at the pleasure of the Governor and shall be representative of health care providers, families with children eligible for services under Sections 1 to 7 and Section 8 of this Act and child advocacy groups.

(2) Staff services for the advisory council shall be provided by the Cabinet for Human Resources.

SECTION 7. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 and Section 8 of this Act shall be known as the Kentucky Children's Health Insurance Program Act.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In no event shall more than ten percent (10%) of federal and state funds allocated to the Kentucky Children's Health Insurance Program be used for:

(a) Children's health programs other than those targeted for low-income children as defined under Title XXI of

the federal Social Security Act;

(b) Initiatives for improving the health of children except those low income children as defined under Title XXI of the federal Social Security Act or an approved Title XXI state plan (KCHIP);

(c) Outreach activities that inform families of children who are likely to be eligible for this program or other public or private health coverage programs allowed by the federal Social Security Act; and

(d) Other reasonable costs incurred by the state to administer the program.

(2) The department shall use the insurer's or health maintenance organization's sales and marketing methods and may include the use of agents and payment of commissions, to inform families of the availability of the Kentucky Children's Health Insurance Program and assist them in obtaining coverage for children under the program.

SECTION 9. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) In any plan submitted for federal Title XXI approval of a children's health insurance program for Kentucky, the cabinet shall include provisions for a preventive health insurance program for children with no copayment, deductible, coinsurance, or premium.

(2) The plan referred to in subsection (1) of this section shall include preventive dental services, tooth extraction, and emergency dental services.

Section 10. Whereas it is critical to meet the needs of children not otherwise eligible for health care except through the opportunities presented by Title XXI of the Social Security Act and the Kentucky Children's Health Insurance Program, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 145, AN ACT relating to traumatic brain injury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to Section 2 of this Act;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Traumatic Brain Injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain injury" does not include:

(a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;

(b) Spinal cord injuries for which there are no known or obvious injuries to the intereranial central nervous system;

(c) Progressive dementias and other mentally impairing conditions;

(d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;

(e) Mental retardation and birth defect related disorders of long standing nature; or

(f) Neurological degenerative, metabolic and other medical conditions of a chronic, degenerative nature.

(4) "Trust fund" means the traumatic brain injury trust fund created pursuant to Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the Secretary of the Cabinet for Human Resources or the secretary's designee, the Executive Director of the Brain Injury Association of Kentucky or the executive director's designee, the state medical epidemiologist, and the following members, to be appointed by the Governor:

(a) One (1) member shall be a neurosurgeon;

(b) One (1) member shall be a neuropsychologist or psychiatrist;

(c) One (1) member shall be a rehabilitation specialist;

(d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and

(e) Two (2) members shall be family members of or individuals with a brain injury.

(2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses,

including meals and lodging incurred in the performance of their duties.

(3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

- *(a) Two (2) on June 30, 2000;*
- *(b) Two (2) on June 30, 2001; and*
- *(c) Two (2) on June 30, 2002.*

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership shall constitute a quorum.

(6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.

(7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of any necessary support personnel. The administrative costs of the board shall be limited to three percent (3%) of the proceeds from the trust fund.

(8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.

(9) The board shall be attached to the cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 5 of this Act;

(2) Formulate policies and procedures for determining individual eligibility for assistance from the trust fund in accordance with the following guidelines:

- *(a) The trust fund shall serve as a funding source of last resort for residents of the Commonwealth of Kentucky. To be eligible for assistance from the trust fund, an individual must have exhausted all other funding sources that cover the type of services sought through the trust fund. Individuals who have continuing health insurance benefits, including Medicaid, may access the trust fund for services that are needed but not covered by insurance or any other funding source. Individuals who qualify for institutional care through Medicaid shall not qualify for services through the trust fund;*
- *(b) All individuals receiving assistance from the fund shall receive case management services;*
- *(c) Expenditures on behalf of any one (1) brain-injured individual may not exceed fifteen thousand dollars ($15,000) for any twelve (12) month period, and may not exceed a lifetime maximum of sixty thousand dollars ($60,000). At its discretion and subject to fund availability, the board may waive the expenditure or time limitations or both in special circumstances;*
- *(d) Services covered by the trust fund shall include:*
  - *1. Case management;*
  - *2. Community residential services;*
  - *3. Structured day program services;*
  - *4. Psychological services;*
  - *5. Prevocational services;*
  - *6. Supported employment;*
  - *7. Companion services;*
  - *8. Respite care;*
  - *9. Occupational therapy; and*
  - *10. Speech and language therapy.*

  Covered services shall not include institutionalization, hospitalization, environmental modifications, special medical equipment and supplies, medications, and behavioral programs;

(3) Establish a confidential medical registry for traumatic brain and spinal cord injuries occurring in the Commonwealth of Kentucky, or to residents of the Commonwealth of Kentucky.

- *(a) The board may promulgate administrative regulations requiring licensed or certified professionals or health* *services providers to report the occurrence of brain and spinal cord injuries, relevant medical and epidemiological information about the injuries, and other information describing the circumstances of the injury to the board or its designated agent. The reporting of data by licensed hospitals under this section shall be limited to that which is reported to the Cabinet for Human Resources pursuant to KRS 216.2920 to 216.2929 and the board shall obtain this data from the Cabinet for Human Resources. Each licensed hospital shall grant the board, upon presentation of proper identification, access to the medical records of patients with reportable brain and spinal cord injuries for the sole purpose of collecting additional information that is not available in the data obtained from the Cabinet for Human Resources. All costs associated with copying medical records shall be borne by the board. No liability of any kind shall arise or be enforced against any licensed hospital or hospital employee for providing the board access to a patient's medical record.*

(b) The board and its designated agent, if one is appointed, shall observe the same confidentiality requirements established for the Kentucky birth surveillance registry in KRS 211.670.

(4) Investigate the needs of brain-injured individuals and identify gaps in current services;

(5) Assist the cabinet in developing programs for brain-injured individuals;

(6) Monitor and evaluate services provided by the trust fund; and

(7) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 1 of each year summarizing the activities of the board and the trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The traumatic brain injury trust fund is created as a separate revolving fund. The trust fund shall consist of moneys collected from an additional assessment of twenty dollars ($20) imposed on driving under the influence offenses, an additional assessment of ten dollars ($10) imposed against selected speeding offenses, and an additional fine of ten dollars ($10) imposed against selected moving violations.

(2) The trust fund may receive the proceeds from grants, contributions, appropriations, and any other moneys that may be made available for the purposes of the trust fund.

(3) Expenditures from the trust fund on behalf of the medical registry created under Section 3 of this Act shall not exceed one hundred twenty-five thousand dollars ($125,000) for any fiscal year.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse to the general fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Trust fund moneys shall be distributed for the following purposes:

(1) To provide services to individuals suffering from conditions that qualify for assistance from the fund, in accordance with criteria established by the board in Section 3 of this Act;

(2) To establish and maintain a state medical registry for traumatic brain and spinal cord injuries; and

(3) To meet the obligations incurred by the board in meeting its duties in accordance with the provisions of Sections 2 and 3 of this Act.

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less

than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) ***Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of five dollars ($5). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 7. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed 15	20	25	30	35	40	45	50	55	60	65	Fine	
1		16	21	26	31	36	41	46	51	56	61	66	$1
2		17	22	27	32	37	42	47	52	57	62	67	2
3		18	23	28	33	38	43	48	53	58	63	68	3
4		19	24	29	34	39	44	49	54	59	64	69	4
5		20	25	30	35	40	45	50	55	60	65	70	5
6		21	26	31	36	41	46	51	56	61	66	71	16
7		22	27	32	37	42	47	52	57	62	67	72	17
8		23	28	33	38	43	48	53	58	63	68	73	18
9		24	29	34	39	44	49	54	59	64	69	74	19
10		25	30	35	40	45	50	55	60	65	70	75	20
11		26	31	36	41	46	51	56	61	66	71	76	22
12		27	32	37	42	47	52	57	62	67	72	77	24
13		28	33	38	43	48	53	58	63	68	73	78	26
14		29	34	39	44	49	54	59	64	69	74	79	28
15		30	35	40	45	50	55	60	65	70	75	80	30

16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.

(6) ***Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(7) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(8)~~[(7)]~~ All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

Section 8. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:
   (a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;
   (b) While under the influence of alcohol;
   (c) While under the influence of any other substance or combination of substances which impairs one's driving ability;
   (d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or
   (e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:
   (a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and
   (b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(10) Any person who violates the provisions of subsection (1) of this section shall be assessed fifteen dollars ($15) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.

Section 9. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as

contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any two (2) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

SB 374, AN ACT relating to the certificate of need process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.086 is amended to read as follows:

(1) The cabinet may revoke a certificate of need, or portion thereof, for failure of the holder of the certificate to implement the project in accordance with timetables and standards for implementation established by administrative regulation of the cabinet; however, for projects involving long-term care beds, the cabinet may revoke any certificate granted which is not implemented within twenty-four (24) months or within any six (6) month reporting interval during which there is not satisfactory progress in meeting the project timetable and shall revoke any certificate granted which is not implemented within thirty-six (36) months except for those projects specified as an exception pursuant to Executive Order 96-129 in which case those projects shall be implemented according to the intervals and timetable set forth in this section, as of the effective date of Medicaid funding in the biennial budget for those projects. The administrative regulation for projects involving long-term care beds shall be based on project completion in twenty-four (24) months and shall specify criteria for measuring implementation of project objectives at six (6) month reporting intervals. If, at any six (6) month reporting period, the certificate holder is able to show good cause as to why a project failed to meet its timetables, an extension of six (6) months may be granted to meet that particular timetable. The burden of proof shall be on the certificate holder. [~~In no case shall~~]An extension ***may*** be granted beyond a total of thirty-six (36) months***, only if the applicant requests that the cabinet grant an additional six (6) month extension beyond the initial thirty-six (36) month completion period and shows good cause. For purposes of this section, there shall be deemed to be "good cause" if the project can be completed within the additional six (6) month period. In no case shall an extension be granted beyond a total of forty-two (42) months***. The holder of the certificate of need shall file with the cabinet the name and business address of all owners, investors, and stockholders in the project whose ownership interest is greater than ten percent (10%). All reports submitted by the certificate holder under this subsection shall be considered a public record in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.

(2) The cabinet shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need or portion thereof. The cabinet's initial decision to revoke a certificate of need or portion thereof shall become final after

thirty (30) days unless a hearing is requested. The secretary shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(3) The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the cabinet to revoke a certificate of need within thirty (30) days of the date of notice of the initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final cabinet decision to revoke a certificate of need.

(4) The hearing shall be before a person designated by the secretary to be the hearing officer. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(5) If a hearing is requested, the secretary shall set a date, time, and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the cabinet.

(6) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross-examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be recorded but not be transcribed unless the cabinet's final decision is appealed pursuant to this chapter.

(7) After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with employees of the cabinet regarding the revocation. If an ex parte contact occurs, it shall be promptly made a part of the record.

(8) If a hearing is requested after notice of the cabinet's initial decision to revoke a certificate of need, the cabinet shall make a final decision within thirty (30) days after the hearing. Any final decision revoking a certificate of need shall be made by the cabinet in writing. The cabinet shall notify the parties to the proceedings of the final decision.

(9) Any final decision of the cabinet to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(10) Except as provided in subsection (3) of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 shall be available with regard to a final decision of the cabinet to revoke a certificate of need.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **SB 168**

Health and Welfare: **SB 351**

Natural Resources and Environment: **SB 364**

Floor Amendments (Continued)

Floor Amendment No. 4 to the House Committee Substitute to **SB 328**, by Representative Mason:

On page 4, line 7, By inserting after "***KRS Chapter 216B***" the following: "***and subject to approval under certificate of need***".

Calendar

SB 233, SB 21, and **SB 300** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Hoover moved that the rules be suspended to grant floor privileges to a former member of the House. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the House Committee Substitute to **SB 214**, by Representative Stewart:

On page 6, after line 12, by inserting:

"***(6) After two (2) years from the effective date of this Act, all state parks shall have on staff at least one (1) employee who has completed the Master Logger Program.***".

Floor Amendment No. 2 to the House Committee Substitute to **SB 214**, by Representative Stewart:

On page 6, after line 12, by inserting:

"***(6) Any logger who primarily uses mules or horses in the logging operation shall be exempt from the Master Logger Program.***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 214**, by Representative Stewart:

On page 6, line 10, after "***public.***" by inserting "***All master loggers shall provide the cabinet with a published phone number.***"

Floor Amendment No. 3 to **SB 339**, by Representative Long:

On page 4, line 14, by deleting "***KRS 393.280***" and inserting in lieu thereof "***Section 2 of this Act***"; and

On page 6, after line 20, but before line 21, by inserting the following:

"Section 6. KRS 393.110 is amended to read as follows:

(1) ***A holder of property presumed abandoned shall make an annual report to the department concerning the property. The report shall be filed on or before November 1 of each year and shall cover the twelve (12) months ending on July 1 of that year. All property so reported shall be turned over by November 1 to the department. The report shall be verified and*** ~~[Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the department with respect to the property annually as of July 1. The report shall be filed in the office of the department on or before August 1 of each year for the preceding July 1. The report]~~ shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of one hundred dollars ($100) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the department prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days this copy on the courthouse door or the courthouse bulletin board, and also to publish the copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of one hundred dollars ($100) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the department the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and the posting and publishing shall be constructive notice to all interested parties.

(2) ***The holder of property presumed abandoned shall send written notice to the apparent owner, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section*** ~~[Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the department shall mail notice to each person having an address listed in the report who appears to be entitled to property presumed abandoned under this chapter]~~; except the ***holder*** ~~[department]~~ shall not be required to mail a notice to any ***apparent owner*** ~~[person whose name appears on the abandoned property list]~~ where the fair cash value of the property is one hundred dollars ($100) or less. The notice shall contain:

(a) A statement that according to a report filed with the department properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, by ***November 1*** [~~January 1~~] of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut the presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding the property shall be under no duty while the action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of the action.

(4) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all the property within the jurisdiction of the court in which the action is brought if the property of different persons is set out in separate paragraphs.

Section 7. KRS 393.140 is amended to read as follows:

(1) Any person claiming an interest in any property paid or surrendered to the state in accordance with KRS 393.020 to 393.050 who was not actually served with notice, and who did not appear, and whose claim was not considered during the action or at the proceedings that resulted in its payment to the state, may, within five (5) years after the judgment, file his claim to the property with the department.

(2) Any person claiming an interest in any estate or property paid or surrendered to the state in accordance with KRS 393.060 to 393.120, that was not subsequently adjudged under the procedure set out in KRS 393.230 to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee, or other person entitled under the laws of this state relating to wills, descent, and distribution to take the legal or equitable title, may file his claim to it at any time after it was paid to this state.

[~~(3) Any claimant that is an heir or a relative to the original owner shall, within fifteen (15) days after filing any claim permitted under this section in excess of one hundred dollars ($100), publish notice of the claim pursuant to KRS Chapter 424 in the county in which the property was held before being transferred to the state. If the claim is for one hundred dollars ($100) or less, the claimant shall post at the courthouse door and three (3) other conspicuous places in that county, and shall file proof of publication or posted notice with the department. No claim shall be allowed until fifteen (15) days after proof of the notice is received by the department.~~]

SECTION 8. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the department, within three (3) years of the receipt of abandoned property, may sell it to the highest bidder at a public sale at a location in the state which, in the judgment of the department, affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department need not offer the property for sale if the department considers that the probable cost of sale will exceed the proceeds of the sale. At least three (3) weeks prior to a sale conducted under this section, the department shall publish a notice of the sale in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the department. If securities are sold by the department before the expiration of three (3) years after their delivery to the department, a person making a claim under this chapter before the end of the three (3) year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this chapter after the expiration of the three (3) year period is entitled to receive the securities delivered to the department by the holder, if they still remain in the custody of the department, or the net proceeds received from the sale, and is not entitled to receive any appreciation in the value of the property occurring after the delivery to the department, except in the case of intentional misconduct or malfeasance by the department.

(3) A purchaser of property at a sale conducted by the department pursuant to this chapter takes property free of all claims of the owner or previous holder and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

On page 6, line 21, by deleting "6" and inserting in lieu thereof "9".

Floor Amendment No. 1 to **SB 123**, by Representative Gray:

On page 3, by inserting after line 5:

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 7 of this Act, unless the context requires otherwise:

(1) "Historical site" means a cultural or educational site that is officially listed in the National Register of Historical Sites;

(2) "Fully controlled access highway" means a limited access highway, an interstate, and a parkway;

(3) "Limited supplemental guide sign" means an official highway guide sign that is erected by the Department of Highways to give directions, furnish advance notice, show mileage or exit indicators, and indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions and that conforms to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(4) "Post-interchange guide sign" means an official highway sign that may be used in conjunction with a limited supplemental guide sign and that lists the name of a tourist area or attraction or an historical site and the distance from an interstate to a tourist area or attraction or an historical site. A post-interchange guide sign shall conform to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(5) "Rural area" means an area that does not have sufficient population to be designated as an urban area;

(6) "Tourist area or attraction" means a cultural, recreational, or entertainment facility or an area of natural phenomenon or scenic beauty that is suited for outdoor recreation or that receives a major portion of its income or visitors during the normal business season from motorists not residing in the immediate area of the tourist area or attraction. "Tourist area or attraction" does not include any of the following:

- *(a) Lodging facilities; or*
- *(b) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created by individuals at the tourist area or attraction or if the sale of goods is incidental to the tourist area or attraction;*

(7) "City" means an area with a population of one hundred thousand (100,000) or more designated by the United States Department of Commerce, Bureau of the Census.

SECTION 5. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) No later than February 1, 1999, the commissioner of the Department of Highways shall establish standards, procedures, and forms for the making and approval of applications for a limited supplemental guide sign by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for the approval of a limited supplemental guide sign application for an historical site or for a tourist area or attraction shall be based upon average annual attendance and distance from a fully controlled access highway interchange.

(3) At a fully controlled access highway interchange in a rural area, the standards for approval shall be the lesser of:

- *(a) Tourist areas and attractions that have an average annual attendance of ten thousand (10,000) visitors and are located within fifty (50) miles of a fully controlled access highway;*
- *(b) Tourist areas and attractions that are located within fifty (50) miles of a fully controlled access highway interchange and have an annual visitation equal to or greater than the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.*

(4) At a fully controlled access highway interchange in a city, the standards for approval shall be the lesser of:

- *(a) Tourist areas and attractions that have an average annual attendance of seventy-five thousand (75,000) visitors and are located within fifty (50) miles of a fully controlled access highway interchange;*
- *(b) Tourist areas and attractions that are located within fifty (50) miles of a fully controlled access highway interchange and have an annual visitation equal to the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.*

(5) Historical sites that are located in either a rural area or a city shall have an average annual attendance of five thousand (5,000) and shall be located within fifty (50) miles from a fully controlled access highway interchange.

(6) The identification of a tourist area or attraction on a specific service sign pursuant to KRS 177.0736 shall not affect its eligibility for a limited supplemental guide sign.

(7) Upon receipt of an application, the commissioner of the Department of Highways shall within thirty (30) days provide written notification to the applicant of any hearings pertaining to the application. The commissioner of the Department of Highways shall make a determination on whether to approve the erection of a limited supplemental guide sign within ninety (90) days after the receipt of an application and shall provide written notification to the

applicant of his decision.

(8) Supplemental guide signs, including but not limited to limited supplemental guide signs, erected prior to July 1, 1998, shall not be removed due to the site selection criteria contained in Sections 4 to 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) An application from an historical site or from a tourist area or attraction for the erection of a limited supplemental guide sign shall be made to the commissioner of the Department of Highways. The application shall include, but not be limited to:

(a) Evidence that demonstrates the average annual attendance;

(b) Evidence that the tourist area or attraction is established as a permanent business; and

(c) Evidence that the tourist area or attraction has all necessary and proper licenses, that normal business hours shall be maintained, that it is open to the traveling public, and that it provides recreational or educational opportunities.

(2) A nonrefundable application fee of two hundred dollars ($200) shall be paid to the Department of Highways.

(3) Upon approval of the application, the applicant shall pay a fee not to exceed five hundred dollars ($500) per year for a period of ten (10) years or the total cost of the sign and its installation amortized for a period of ten (10) years, whichever is lesser, to the Transportation Cabinet.

SECTION 7. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

Pursuant to the requirements of the MUTCD Section 1A-6, the commissioner of the Department of Highways shall apply to the Federal Highway Administration, by no later than February 1, 1999, for permission to experiment with a new usage of post-interchange guide signs on all fully controlled access highways in the Commonwealth of Kentucky.

Section 8. KRS 177.0734 is amended to read as follows:

As used in KRS 177.0734 and 177.0736, unless the context requires otherwise:

(1) "Fully controlled access highways" means highways, limited to interstate and state parkways, that shall give preference to through traffic, shall have access only at selected public roads or streets, shall have no highway grade crossing or intersection, and shall further conform with the Federal Highway Administration's (FHWA's) adopted standards as contained in Federal Highway Program Manual (FHPM) 6-8-3-8 and to administrative regulations promulgated pursuant to KRS Chapter 13A;

(2) "Logo signs" means signs that consist of a business identification symbol, name, brand, trademark, or combination thereof that may be attached to specific service signs, pursuant to the Manual on Uniform Traffic Control Devices (MUTCD) and administrative regulations promulgated pursuant to KRS Chapter 13A; ~~[and]~~

(3) "Specific service signs" means official signs, erected on the rights-of-ways of fully controlled *or partially controlled* access highways~~[as defined in subsection (1) of this section,]~~ or roads as defined in KRS 177.010, that shall include, but not be limited to, the display of the words "Gas", "Food", "Lodging", *"Attractions",* or "Camping" or combinations thereof and shall have space for one (1) or more logo signs that may be attached to the official signs. The erection and maintenance of the official signs shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) and administrative regulations promulgated pursuant to KRS Chapter 13A*; and*~~[.]~~

(4) "Partially controlled access highway" means a highway that gives preference to through traffic, that has access only at selected public roads or streets, and that may have a limited number of highway at-grade intersections and private driveway connections.

Section 9. KRS 177.0736 is amended to read as follows:

The commissioner of the Department of Highways shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to provide for the erection of specific service signs on fully controlled access highways *or at interchanges on partially controlled access highways*. The administrative regulations shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), and shall include, but not be limited to, criteria for the following:

(1) Distances to eligible businesses;

(2) Selection of eligible businesses;

(3) Acceptance of logo signs that conform to the MUTCD;

(4) Removing or covering logo signs during off seasons for eligible businesses operated on a seasonal basis;

(5) Defining the circumstances in which specific service signs are erected; and

(6) Determining the costs to eligible businesses for initial installation, annual maintenance, and removal of logo signs.

Floor Amendment No. 2 Title to **SB 123**, by Representative Gray:

by amending the title to read as follows: AN ACT relating to transportation.

Floor Amendment No. 12 to **SB 121**, by Representative Johns:

On page 2, line 10, following "***abortion***", to insert "***unless the fetus has been diagnosed by one (1) or more obstetricians or gynecologists as being anencephalic***".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 4 to the House Committee Substitute to **SB 21**, by Representative Treesh:

On page 1, line 10, by deleting "***and that the funding provided by***"; and

On page 1, by deleting 11 in its entirety; and

On page 1, line 12, by deleting "***purposes described in Sections 1 to 6, and 8 to 10 of this Act***"; and

On page 4, lines 1 and 2, by deleting "***net lottery revenues transferred in accordance with Section 7 of this Act;***" and inserting in lieu thereof "***appropriations made by the General Assembly,***"; and

On page 4, line 6, by deleting "***6, and 8 to 10***" and inserting in lieu thereof "***9***"; and

Beginning on page 12, line 20 through page 15, line 21, by deleting Section 7 in its entirety; and

By renumbering subsequent sections accordingly; and

On page 15, lines 25 and 26, by deleting "***moneys credited to the fund under Section 7 of this Act,***"; and

On page 16, line 21, by deleting "***9***" and inserting in lieu thereof "***8***"; and

On page 16, line 26, by deleting "***8***" and inserting in lieu thereof "***7***".

Report of Committees (Continued)

The Committee on Rules reported that **HCR 131, SB 41, SB 72, SB 77, SB 88, SB 164, SB 208, SB 276, SB 328, SB 352, SCR 95, SB 34, SB 123, SB 147, SB 160, SB 205, SB 230, SB 242, SB 257, SB 261, SB 277, SB 309,** and **SB 21** have been posted for passage in the Orders of the Day for March 24, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 669, HB 743, HR 130, SB 186, SB 332**

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 37, HB 51, HB 97, HB 309, HB 406, HB 493,** and **HB 602** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:37 p.m.) **HB 37, HB 51, HB 97, HB 309, HB 406, HB 493, HB 602** delivered to the Senate and signed by the President. Delivered to the Governor on March 23 at 5:02 p.m.

Floor Amendments (Continued)

Floor Amendment No. 13 to **SB 121**, by Representative Johns:

On page 1, line 19, after "***delivery***", by inserting "***except that the term shall not apply when a fetus, in the vagina, is diagnosed by either one (1) or more obstetricians or gynecologists as being anencephalic***"; and

On page 1, line 23, after "fetus" by inserting "***except that the term shall not apply when a fetus, in the vagina, is*** *diagnosed by either one (1) or more obstetricians or gynecologists as being anencephalic*"; and

On page 2, after line 7 and before line 8, by inserting the following:

"*(12) "Anecephaly" means a congenital defective development of the brain, with absence of the bones of the cranial vault and absent or rudimentary cerebral or cerebellar hemispheres, brainstem, and basal ganglia.*".

Floor Amendment No. 1 to the House Committee Substitute to **SB 233**, by Representative Jenkins:

On page 8, between lines 18 and 19, by inserting the following new language:

"*1. A twenty-four (24) hour waiting period prior to the cabinet issuing a vegetation control permit to any owner of an outdoor advertising device. The cabinet shall notify the owner of an advertising device of the date when the cabinet has approved a vegetation control permit and is intending to issue the owner a permit under this subsection. The owner shall be required to wait twenty-four (24) hours from the time of notification by the cabinet and shall be required to:*

a. Travel to Frankfort where the owner shall be required to spend the night; and

b. Provide proof of overnight lodging to the cabinet when personally picking up the vegetation control permit from the Frankfort central office of the Transportation Cabinet;

2. A signed affidavit attesting that the owner has reviewed literature published by the cabinet depicting the horror and carnage of vegetation that has been cut, trimmed, or removed from the view of an outdoor advertising device;

3. A signed affidavit attesting to the owner's mental stability and that the decision to apply for a vegetation control permit has been carefully evaluated and that the decision is based upon facts and logic and not upon emotion;"; and

On page 8, line 19, by renumbering subparagraph "*1.*" as subparagraph "*4.*"; and

On page 8, line 20, by renumbering subparagraph "*2.*" as subparagraph "*5.*"; and

On page 8, line 21, by renumbering subparagraph "*3.*" as subparagraph "*6.*".

Floor Amendment No. 2 to the House Committee Substitute to **SB 233**, by Representative Heleringer:

Beginning on page 4, line 20, and continuing through page 5, line 10, delete Section 2 from the bill in its entirety; and

On page 5, line 11, renumber "Section 3" as "Section 2"; and

On page 6, line 6, renumber "Section 4" as "Section 3"; and

On page 8, line 9, after the subsection number "*(5)*" delete line 9 in its entirety and insert in lieu thereof the following:

"*If vegetation of any kind screens or obstructs the view of any advertising device, the advertising device shall immediately be reduced in size to permit the advertising device to comply with the billboard viewing zone established in subsection (11) of Section 1 of this Act.*"; and

On page 8, lines 10 through 27, by deleting lines 10 through 27 in their entirety; and

On page 9, lines 1 through 27, by deleting lines 1 through 27 in their entirety; and

On page 10, lines 1 through 17, by deleting lines 1 through 17 in their entirety; and

On page 11, line 3, renumber "Section 5" as "Section 4".

Orders of the Day

SB 296 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 296** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 23, 1998 roll call on **SB 296** - Appendix.) **SB 296** was passed and the title agreed to. Representative Gray moved that the vote by which **SB 296** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 269 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **SB 269** be passed.

On the roll call the vote was: Yeas 85, Nays 8 (See March 23, 1998 roll call on **SB 269** - Appendix.) **SB 269** was passed and the title agreed to. Representative Treesh moved that the vote by which **SB 269** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 122 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 122** be placed back in the Orders of the Day. Agreed.

SB 165 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 165** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 23, 1998 roll call on **SB 165** - Appendix.) **SB 165** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 165** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 161 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 161** be passed.

On the roll call the vote was: Yeas 85, Nays 9 (See March 23, 1998 roll call on **SB 161** - Appendix.) **SB 161** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 161** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 14 to **SB 121**, by Representative Stein:

On page 1, lines 17 through 19, to delete the new language and insert in lieu thereof "***"Partial-birth abortion" means an abortion in which the physician pulls a viable baby feet-first out of the womb, leaving the baby's head lodged just inside the cervix, with the physician then puncturing the base of the skull with a pair of surgical scissors, and removing the baby's brain by inserting a hollow metal tube, thereby causing the skull to collapse.***".

Floor Amendment No. 4 to the House Committee Substitute to **SB 214**, by Representative Walton:

On page 6, line 15, by deleting "***Two (2)***", and inserting in lieu thereof, "***Four (4)***".

Floor Amendment No. 5 to the House Committee Substitute to **SB 214**, by Representative Walton:

On page 6, lines 1, 2, and 3, by deleting:

"***After successful completion of the Master Logger Program, continuing education shall be required of the loggers every three (3) years.***

(3)"; and
On page 6, line 5 after "***division***" by deleting "***, shall specify the requirements for***"; and
On page 6, line 6 by deleting "***continuing education, and,***"; and
On page 6, line 8, by deleting "***(4)***" and inserting "***(3)***" in lieu thereof; and
On page 6, line 9, after "***Program***" by deleting "***and required continuing education,***"; and
On page 6, line 11, by deleting "***(5)***" and inserting "***(4)***" in lieu thereof.

Orders of the Day (Continued)

SB 59 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved that **SB 59** be passed.

On the roll call the vote was: Yeas 80, Nays 13 (See March 23, 1998 roll call on **SB 59** - Appendix.) **SB 59** was passed and the title agreed to. Representative Miller moved that the vote by which **SB 59** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 320 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **SB 320** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 23, 1998 roll call on **SB 320** - Appendix.) **SB 320** was passed and the title agreed to. Representative Wayne moved that the vote by which **SB 320** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 44, SB 54,** and **SB 126** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:55 p.m.))

Orders of the Day (Continued)

SB 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **SB 68** be passed.

On the roll call the vote was: Yeas 79, Nays 10 (See March 23, 1998 roll call on **SB 68** - Appendix.) **SB 68** was passed and the title agreed to. Representative R. Adams moved that the vote by which **SB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 250 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 250** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 23, 1998 roll call on **SB 250** - Appendix.) **SB 250** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **SB 250** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 354 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 354** be placed back in the Orders of the Day. Agreed.

SB 28 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Mason moved that **SB 28** be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 23, 1998 roll call on **SB 28** - Appendix.) **SB 28** was passed and the title agreed to. Representative Mason moved that the vote by which **SB 28** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 354 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Collins moved that **SB 354** be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 23, 1998 roll call on **SB 354** - Appendix.) **SB 354** was passed and the title agreed to. Representative Collins moved that the vote by which **SB 354** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 106 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stine moved that **SB 106** be passed.

On the roll call the vote was: Yeas 90, Nays 2 (See March 23, 1998 roll call on **SB 106** - Appendix.) **SB 106** was passed and the title agreed to. Representative Stine moved that the vote by which **SB 106** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 55, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **SB 55**. Agreed.

Representative Gooch moved that **SB 55**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 60, Nays 29 (See March 23, 1998 roll call on **SB 55** - Appendix.) **SB 55**, by way of Committee Substitute, was passed and the title agreed to. Representative Gooch moved that the vote by which **SB 55**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **SB 36** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 23, 1998 roll call on **SB 36** - Appendix.) **SB 36** was passed and the title agreed to. Representative Stein moved that the vote by which **SB 36** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 83** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 23, 1998 roll call on **SB 83** - Appendix.) **SB 83** was passed and the title agreed to. Representative Burch moved that the vote by which **SB 83** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 122 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative Geveden moved that **SB 122** be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 23 , 1998 roll call on **SB 122** - Appendix.) **SB 122** was passed and the title agreed to. Representative Geveden moved that the vote by which **SB 122** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the posting be waived on **SB 287, SB 357, SB 364, SB 351, SB 373, SB 376, SB 360, SB 226, SB 399, SB 438,** and **SCR 131**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 141, by Representative Burch: A RESOLUTION declaring June, 1998, as Hepatitis C Education Awareness Month.

HR 142, by Representative Burch: A RESOLUTION in honor of the occasion of the birth of Alexis Marie Meeks.

HR 143, by Representatives Marzian, Weaver, Wayne, Burch, D. Butler, Hatcher, Riggs, Riner, DeWeese, Heleringer, Bratcher, L. Clark, Jordan, Jenkins, Hoffman, Johns, Horlander, P. Clark and Miller: A RESOLUTION adjourning the House of Representatives in honor of Mayor Jerry Abramson and declaring March 25, 1998, as Jerry Abramson Day in the Commonwealth of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Licensing and Occupations: **SB 287, SB 357**

Judiciary: **SB 199**

Transportation: **SB 226, SB 341, SB 399, SB 440**

Cities: **SB 279**

Agriculture and Small Business: **SCR 131, SB 360**

Motions, Petitions and Communications (Continued)

Representative Ratliff moved the adoption of the following **Legislative Citation No. 186**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in reverent memory of Edward T. Biliter. The House of Representatives joins Representative Chris Ratliff in expressing its deepest sympathy to all who share in the great loss on the passing of this devoted son of Carl and Bobbie Biliter; loving husband of Rochella Mounts Biliter; adored father of Tony Biliter and Brandi Gooslin, and cherished brother of Fred Carl, Kenneth, Lynn, Sharon and Marsha Kay. This extraordinary citizen of the Commonwealth will long be missed by those whose fortune it was to know him. The Kentucky House of Representatives is honored on this day to remember Edward T. Biliter and to express our deepest condolences to his family and friends. **Legislative Citation No. 186** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 185**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Janet Milliken in recognition of the outstanding contributions she has made throughout the course of her life to the Commonwealth of Kentucky, to her many friends and to her beloved family. The widow of the late James B. Milliken, former Chief Justice of the Supreme Court, beloved mother, and most cherished grandmother, Janet Milliken has spent the last thirty of her eight-five years as a valued resident of our fair state. She worked countless hours for the Children's Research Association in Cincinnati, is a proud and dedicated member of the Hospice of the Bluegrass and remains an active member of the Frankfort Garden Club. This most gracious woman has always shown boundless generosity with and interest in her fellowman. She has been, on many occasions, a source of strength and inspiration to those whose fortune it has been to cross her path. The members of the Kentucky House of Representatives are delighted to join Representative Gippy Graham in paying tribute to Janet Milliken and in adjourning this legislative day in her honor. **Legislative Citation No. 185** was adopted without objection.

Representative Jenkins moved that Floor Amendment No. 17 to **SB 177** be withdrawn. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 18**, by Representative Bratcher:

On page 4, after line 3 by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 76.005 TO 76.210 IS CREATED TO READ AS FOLLOWS:

When extending its sewer services, a metropolitan sewer district shall allow a period of ten (10) years to expire from the date of installation of the new extension before requiring a person to tap-on to the new extension.".

Floor Amendment No. 5 to **SB 18**, by Representative Bratcher:

On page 4, after line 3 by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 76.005 TO 76.210 IS CREATED TO READ AS FOLLOWS:

No person shall be required to tap on to an extension of a metropolitan sewer district for a period of ten (10) years from the date the person would be required to tap on if the person, before that date, in accordance with KRS Chapter 211:

(1) Has acquired and continues to maintain a valid permit to operate an on-site sewage disposal system;

(2) Has installed, is installing, or has contracted for the installation of an on-site sewage disposal system; and

(3) Operates the on-site sewage disposal system, once installed, in accordance with administrative regulations promulgated by the Cabinet for Human Resources for the regulation of on-site sewage disposal systems.

If a person fails to fulfill the requirements of the conditions of subsections (1) to (3) of this section, the metropolitan sewer district may require the person to tap on to the sewer extension immediately.".

Floor Amendment No. 4 to **SB 339**, by Representative Hoffman:

On page 5, line 6 by deleting "***twenty-four (24)***" and by inserting in lieu thereof "***twelve (12)***";

On page 5, by deleting lines 14, 15, and 16 in their entirety;

On page 5, line 17 by deleting "***(c)***" and by inserting in lieu thereof "***(b)***"; and by deleting "***property and the***";

On page 5, line 18 after "***rendered;***" by adding "***and***";

On page 5, line 19 by deleting "***(d)***" and by inserting in lieu thereof "***(c)***" and by deleting "***; and***" and by inserting in lieu thereof "***.***";

On page 5, by deleting lines 20 and 21 in their entirety;

On page 6, line 8 by deleting "***twenty-four (24)***" and by inserting in lieu thereof "***twelve (12)***";

On page 6, line 9 after "***enforceable***" by deleting the rest of line 9; and

On page 6, line 10 by deleting "***(10%) of the value of the property collected***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 309**, by Representative Coleman:

On page 2, after line 23, by inserting the following:

"Section 2. KRS 211.165 is amended to read as follows:

The Cabinet for Human Resources shall establish a loan repayment program to repay educational loans for primary health care professionals who agree to serve in federally-designated health professional shortage areas ***and medically underserved areas***. The program shall:

(1) Apply for federal funds for the program under the Public Health Service Act (42 U.S.C. sec. 254g-1) ***and may receive private donations and grant funds***;

(2) Make payments of qualifying educational loans of health professionals agreeing to provide primary health services in federally-designated health professional shortage areas ***and medically underserved areas***;

(3) Assign health professionals only to public and private nonprofit entities;

(4) Enter into contracts with participants with remedies for breach of contract by the health professional;~~[and]~~

(5) Make available nonfederal contributions towards contracts with individual health professionals in an amount not less than one dollar ($1) for each one dollar ($1) of federal funds provided. In meeting this matching fund requirement, the state shall provide fifty percent (50%) of the state's share from state funds, and the remaining fifty percent (50%) shall be provided from local governments or other community-based resources from the area in which the health professional will be serving***; and***

(6) For purposes of this section, "primary health care professionals" means physicians, physician assistants, physical therapists, occupational therapists, optometrists, respiratory therapists, and pharmacists.".

Floor Amendment No. 4 Title to **SB 309**, by Representative Coleman:

By amending the title to read as follows: "AN ACT relating to education."

Motions, Petitions and Communications (Continued)

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **SB 55**. Agreed.

Representative Maricle moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Maricle moved that his vote be changed from "yea" to "nay" on **SB 55**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that his vote be changed from "yea" to "nay" on **SB 55**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Johns moved that her vote be changed from "yea" to "nay" on **HB 633** and **HB 810**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Arnold moved that he be recorded as voting "yea" on **SB 28**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **SB 13, SJR 76, SB 126, SB 44, SB 54,** and Floor Amendment No. 1 to **SB 54,** and "nay" on **SB 45**. Agreed.

The following member filed a request to have his name added as co-sponsor of a Bill under rules previously suspended: **HB 864**, Representative Burch.

Floor Amendments (Continued)

Floor Amendment No. 6 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 10, line 11, by deleting the new language and inserting in lieu thereof, "***Sections 1 to 10 of this Act shall be known as the Deskins-Patton Timber Reformation Act.***".

Floor Amendment No. 7 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 3, after line 15, by inserting the following:

"***(10) Sections 1 to 10 of this Act shall apply only to counties with cities of the first class.***"

Floor Amendment No. 8 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 10, line 11, by deleting "***Kentucky Forest Conservation Act***" and inserting in lieu thereof "***Deskins-Patton Timber Act***".

Floor Amendment No. 9 Title to the House Committee Substitute to **SB 214**, by Representative Allen:

by amending the title to read as follows: AN ACT relating to forest conservation.

Announcements

The following meetings were announced:

Economic Development, upon adjournment, House Chamber; Agriculture and Small Business, Room 113, 10:00 a.m., March 24, 1998; Judiciary, Room 131, 10:00 a.m., 12 Noon, March 24, 1998; Transportation, Room 129, 10:00 a.m., March 24, 1998; State Government, Noon, March 24, 1998; Natural Resources and Environment, March 24, 1998; Health and Welfare, Room 131, 9:00 a.m., March 24, 1998; Licensing and Occupations, March 24, 1998, Noon

The following meeting was cancelled:

Appropriations and Revenue, March 24, 1998

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 24, 1998.

On the roll call the vote was **Yeas 79**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Stacy, Stein, Stine, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**--Cave, Hoover, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

TUESDAY, MARCH 24, 1998

FIFTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Sandy Franklin, Christian Fellowship, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative D. Graham.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 23, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 56, SB 159, SB 197, SB 260, SB 263, HB 45, HB 122, HB 141, HB 166, HB 257, HB 306, HB 336, HB 397, HB 440, HB 457, HB 488, HB 490, HB 537, HB 623, HB 648, HB 651, HB 654, HB 717,** and **HCR 77**. Message received on **SB 221**: The Senate has refused to concur in House Committee Amendment No. 1 to **SB 221** and respectfully requests that this Honorable Body recede from the Amendment. Message received on **HB 161**: The Senate has passed **HB 161** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolution:

Health and Welfare: **HR 141**

Judiciary: **SB 53**

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 140, HR 142, HR 143**

Report of Committees

The Committee on Economic Development reported **SB 224,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 224, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its rural economic development assistance program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years and shall certify those counties as qualified counties.

(2) The authority shall under its rural economic development assistance program designate those counties that do not meet the provisions of subsection (1) of this section but meet the criteria of counties with exceptional circumstances, and shall certify those counties as qualified counties. Criteria for designating a county with exceptional circumstances shall include:

(a) A sudden increase in county unemployment that is not temporary or seasonal in nature and that results from:

1. Plant closures or significant employee layoffs;

2. Natural disaster that causes the loss of businesses; or

3. Cancellation of major contracts resulting in unemployment.

(b) A county unemployment figure, based on the average of six (6) consecutive months, that is more than two hundred percent (200%) of the state unemployment rate averaged over the same period, using monthly figures as released by the Department for Employment Services within the Cabinet for Workforce Development.

(3) If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate ***that meets the criteria of subsection (2) of this section***[~~above the state average~~], the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 ***for those counties qualified pursuant to subsection (1) of this section,*** unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county ***and, for those counties qualified pursuant to subsection (2) of this section, unless the financing agreements required herein are entered into by all parties no later than eighteen (18) months following the month of decertification***.

(4)[~~(2)~~] The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(5)[~~(3)~~] The economic development project shall involve a minimum investment of ***one hundred thousand dollars ($100,000)***[~~five hundred thousand dollars ($500,000)~~] by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6)[~~(4)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 2. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

   (a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

   (b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

   (c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

   (d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

         a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

         b. The aggregate assessment withheld by the approved company in each year.

      2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

   (e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

      2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

      3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

      4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior

years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;
2. Pursue any remedy provided under the financing agreement, including termination thereof; and
3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

The House Committee Substitute to **SB 224** is as follows:

AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its rural economic development assistance program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years***, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available,*** and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate ***that meets the criteria of this subsection***[~~above the state average~~], the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of ***one hundred thousand dollars ($100,000)***[~~five hundred thousand dollars ($500,000)~~] by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 2. KRS 154.28-080 is amended to read as follows:

(1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.

(2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of ***one hundred thousand dollars ($100,000)***[~~five hundred thousand ($500,000)~~] by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) No economic development project which will result in the replacement of a manufacturing or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing or agribusiness facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

(5) With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

(6) After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.

(7) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

The Committee on Agriculture and Small Business reported **SB 360** and **SCR 131** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 360, AN ACT relating to "Kentucky Harvest Day."

WHEREAS, since the organization was founded in 1987, Kentucky Harvest: Food for the Hungry has collected over 18 million pounds of food; and

WHEREAS, Kentucky Harvest delivers 5,000 pounds of food daily to over 100 missions, soup kitchens, social service agencies, and shelters; and

WHEREAS, Kentucky Harvest's 1,000 volunteers are indeed heroes, because they are making a difference through feeding those who are hungry; and

WHEREAS, Kentucky Harvest represents the highest tenets of the human heart as it reaches down and lifts mankind a little higher; and

WHEREAS, the tradition of volunteerism, which Kentucky Harvest embodies, is the very best in the Kentuckian legacy, and this signifies that the tradition is alive and well in this Commonwealth today; and

WHEREAS, Kentucky Harvest deserves recognition from the Commonwealth of Kentucky for the spirit of volunteerism it inspires and for feeding so many of its needy citizens;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

November 15 is designated as "Kentucky Harvest Day."

SCR 131, A CONCURRENT RESOLUTION reauthorizing the 1996 Task Force on Funding for Wildlife Conservation to conduct two meetings and to report its findings.

WHEREAS, the Task Force on Funding for Wildlife Conservation, authorized by the 1996 regular session of the General Assembly, presented recommendations to the 1998 General Assembly; and

WHEREAS, these recommendations cover a broad range of policy, regulatory and legislative changes;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The 1996 Task Force on Funding for Wildlife Conservation is reauthorized with its original membership. The task force shall convene once in 1998 and once in 1999 to assess the progress being made toward implementing the recommendations from its October, 1997 report.

Section 2. The task force shall report its findings to the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Appropriations and Revenue before October 31, 1999.

Section 3. Staff services to be utilized in conducting this assessment and reporting its findings are estimated to cost five thousand dollars ($5,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Health and Welfare reported **SB 228,** with House Committee Substitute attached thereto, and **SB 351,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 228, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment, and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, alcohol or drug abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting, and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative regulations subject to the provisions of KRS chapter 13A to effectuate and implement any committee formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any committee formed pursuant to this section. Any member of the well-being committee as well as any administrator, staff member, consultant, agent, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the committee, or by any individual member of the committee.

(2) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, and any findings, conclusions,

interventions, treatment, rehabilitation, or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

(3) All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records nor shall they be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (4) of this section.

(4) The well-being committee may disclose information relative to an impaired licensee only when:

(a) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired licensee, and only to those persons or organization with a need to know; or

(b) Its release is authorized in writing by the impaired licensee; or

(c) The committee is required to make a report to the board.

Section 2. KRS 313.020 is amended to read as follows:

No person, except those licensed and registered under prior laws of this state, shall practice or attempt to practice dentistry unless *the person*[~~he~~] has been licensed by the board[~~ and has registered his license as provided in KRS 313.110~~].

Section 3. KRS 313.030 is amended to read as follows:

(1) Nothing in this chapter shall prevent students from performing dental operations under the supervision of competent instructors within the dental school, college, or department of a university *or private practice facility approved* [~~recognized~~] by the board. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. *No fee shall be accepted by the student beyond the expenses provided by the stipend.*

(2) Students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.

The House Committee Substitute to **SB 228** is as follows:

AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment, and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, alcohol or drug abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting, and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative regulations subject to the provisions of KRS Chapter 13A to effectuate and implement any committee formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any committee formed pursuant to this section. Any member of the well-being committee as well as any administrator, staff member, consultant, agent, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the committee, or by any individual member of the committee.

(2) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, and any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

(3) All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records and shall be subject to court subpoena and subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (4) of this section.

(4) The well-being committee may disclose information relative to an impaired licensee only when:

(a) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the

impaired licensee, and only to those persons or organization with a need to know; or

(b) Its release is authorized in writing by the impaired licensee; or

(c) The committee is required to make a report to the board; or

(d) The information is subject to court order.

Section 2. KRS 313.020 is amended to read as follows:

No person, except those licensed and registered under prior laws of this state, shall practice or attempt to practice dentistry unless ***the person***~~[he]~~ has been licensed by the board~~[and has registered his license as provided in KRS 313.110]~~.

Section 3. KRS 313.030 is amended to read as follows:

(1) Nothing in this chapter shall prevent students from performing dental operations under the supervision of competent instructors within the dental school, college, or department of a university ***or private practice facility approved*** ~~[recognized]~~ by the board. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. ***No fee shall be accepted by the student beyond the expenses provided by the stipend.***

(2) Students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.

SB 351, AN ACT relating to pharmaceutical services for Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 6 of this Act, "available" means the calendar date when a new drug is first covered on a statewide basis through normal distribution channels for the Medical Assistance Program patients in the Commonwealth.

(2) As used in Sections 1 to 6 this Act, "commissioner" means the commissioner of the Department for Medicaid Services.

(3) As used in Sections 1 to 6 this Act, "new drug" means any entity that is marketed under a product licensing application, new drug application, or a supplement to a new drug application, and prescribed by a health care provider with prescribing authority for a medically accepted indication, except those drugs or classes of drugs identified in 42 U.S.C. section 1396r-8(d)(2), as amended, and that is any of the following:

(a) Any new chemical or molecular entity;

(b) Any new dosage form of an existing chemical or molecular entity;

(c) Any combination of an existing chemical or molecular entity created for a distinct therapeutic purpose; or

(d) Any new indication for an existing chemical or molecular entity approved by the Federal Food and Drug Administration.

SECTION 2. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) No prior authorization shall be required for reimbursement of any claim involving any Medicaid-covered new drug that is available after the effective date of this Act, for a period of at least twelve (12) months, during which time the Drug Management Review Advisory Board may review the product.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A for the drug submission program. Prior to implementation of the administrative regulations, the Drug Management Review Advisory Board shall review the guidelines.

(3) The Department of Medicaid Services shall, within twenty-four (24) months of the effective date of this Act, analyze drug class reviews of all current drugs requiring prior authorization, and shall continue requiring prior authorization by using drug class reviews, safety, utilization factors, and unusual or extreme costs drivers having inappropriate economic impact on the Department of Medicaid Services, until the review criteria are promulgated by administrative regulations according to KRS Chapter 13A, and pursuant to subsection (2) of Section 3 of this Act. At least fifty percent (50%) of class reviews shall be completed within twelve (12) months of the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Drug Management Review Advisory Board shall coordinate the use of utilization data to identify appropriate use of pharmaceuticals and determine any need for educational interventions. Prospective drug utilization review and retrospective drug utilization review measures shall be utilized to monitor the success of the interventions.

Interventions shall be evaluated for a period of not less than six (6) months.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A setting forth the procedures by which all products are placed in the prior authorization drug file.

(3) The commissioner may prior authorize any product that the commissioner determines may pose any significant safety issues or impose an inappropriate financial burden upon the Medicaid program. Placement of a drug on prior authorization by the commissioner shall initiate a review by the Drug Management Review Advisory Board.

(4) Drug reviews related to prior authorization decisions shall not take longer than ninety (90) days.

(5) Implementation and performance of the duties of Sections 1, 2, 3, and 4 of this Act and any drug review shall be performed by the staff of the Cabinet for Human Resources, or its contractors.

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) A Drug Management Review Advisory Board is hereby established and attached to the Cabinet for Human Resources for administrative purposes. The board shall consist of fourteen (14) members to be appointed by the secretary of the Cabinet for Human Resources and shall be constituted as follows:

(a) Five (5) members shall be physicians, one (1) each from the fields of family medicine, internal medicine, pediatrics, and geriatrics. The fifth physician appointed shall be from any other recognized field of medicine. Two (2) of the above indicated physicians shall be representatives of the two (2) current medical schools in the Commonwealth, the University of Kentucky and the University of Louisville Schools of Medicine;

(b) Five (5) members shall be pharmacists, at least one (1) of whom shall be designated as the representative of the University of Kentucky College of Pharmacy;

(c) Two (2) members shall be advanced registered nurse practitioners;

(d) One (1) member shall be a representative of the Cabinet for Human Resources designated to serve on an ex officio basis; and

(e) One (1) nonvoting member shall be a member of the pharmaceutical manufacturing industry.

(2) (a) The physician members of the board shall be appointed from a list of three (3) qualified physicians for each vacancy submitted by the Kentucky Medical Association.

(b) The pharmacist members of the board shall be appointed from a list of three (3) qualified pharmacists for each vacancy submitted by the Kentucky Pharmacy Association.

(c) The advanced registered nurse practitioner members of the board shall be appointed from a list of three (3) for each vacancy, submitted by the Kentucky Nurses Association.

(3) The secretary may appoint one nonvoting industry representative to be selected from a list of three (3) members nominated from the Pharmaceutical Research and Manufacturers of America. The secretary may request additional names for appointments and current members may be considered for reappointment. All members of the board shall be licensed and actively practicing in their respective professions in the Commonwealth and shall have knowledge or expertise in at least one of the following areas:

(a) The clinically appropriate prescribing, utilization, and evaluation of pharmaceuticals;

(b) The clinically appropriate dispensing and monitoring of pharmaceuticals;

(c) Drug utilization review, pharmacoeconomic and pharmacoepidemiological evaluation and intervention, pharmacotherapeutic intervention methods in disease management using treatment algorithms, critical paths, and other measures that have been well defined and validated; and

(d) Medical quality assurance.

(4) Three (3) of the initially appointed physician members, three (3) of the initially appointed pharmacist members, and one (1) of the initially appointed advanced registered nurse practitioners shall be appointed for a term of one (1) year. The remaining initial members shall be appointed for a term of two (2) years. Subsequent appointments shall be for a term of two (2) years. Members shall serve for no more than three (3) consecutive terms. The board shall designate a chair and vice chair. A member shall serve no more than two (2) consecutive terms as chair.

(5) The first meeting of the board shall take place within thirty (30) days of the appointment of all the members of the board.

(6) The board shall meet at least quarterly, or upon the call of the chair or the commissioner. A majority of the voting members of the board shall constitute a quorum. All meetings shall be conducted in accordance with the provisions of the Open Meetings Act, KRS 61.805-61.850, and all balloting shall take place by roll call vote.

(7) Actions of the board shall require a majority vote of the members present or participating through distance communication technology. No member may vote on a matter where a conflict of interest may exist. The chair may vote on any matter before the board unless a conflict of interest exists.

SECTION 5. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Drug Management Review Advisory Board shall have at least the following duties and responsibilities;

(a) Review and make recommendations to the commissioner or designee on predetermined prospective drug use review standards submitted to the board by the Department for Medicaid Services or its contractor;

(b) Evaluate the use of the predetermined prospective drug use review standards and make recommendations to the commissioner or the commissioner's designee concerning modification or elimination of existing standards and the need for additional standards;

(c) Make recommendations to the commissioner or the commissioner's designee concerning guidelines governing written predetermined standards that pharmacies must use in conducting prospective drug use review if they do not use approved software;

(d) Oversee the retrospective drug use review contract and incorporate the results into predetermined retrospective drug use review standards;

(e) Review and make recommendations to the commissioner or the commissioner's designee on predetermined retrospective drug use standards submitted to the board by the Department for Medicaid Services;

(f) Make recommendations to the commissioner or the commissioner's designee concerning the modification or elimination of existing predetermined retrospective drug use review standards and the need for additional standards;

(g) Identify and develop educational topics on common drug therapy problems if needed to improve prescribing or dispensing practices of practitioners;

(h) Make recommendations to the commissioner or the commissioner's designee concerning which mix of interventions would most effectively lead to an improvement in the quality of drug therapy;

(i) Conduct periodic re-evaluations to determine the effectiveness of educational effort and, if necessary, modify the interventions;

(j) Establish standards for the identification of suspected fraud and abuse;

(k) Prepare and submit to the commissioner an annual drug use review report that contains the following information:

1. A description of the nature and scope of the retrospective drug utilization program including the identity of the contractor, the frequency of screening of claims data and the criteria and standards used, along with new or copies of the clinical criteria, and in subsequent years, a list of revised criteria and deleted criteria;

2. A summary of nonpatient and provider specific educational activities including information on the use of each type of patient and provider specific intervention that indicates the guidelines for use and frequency of use by type of intervention and the effectiveness of each type of intervention on changes in prescribing or dispensing practices;

3. An evaluation of the adequacy of prospective drug use review database software; and

4. Details on policy guidelines adopted by the board pertaining to written criteria that pharmacies may use if they do not use a computer prospective drug utilization review database;

(l) Provide advice to the Department for Medicaid Services regarding outpatient drug coverage and the delivery of quality care in the most cost-effective manner possible, giving consideration to the therapeutic equivalence and the cost, including rebate, of drugs and within the context of disease management. In advising the department, the board may consider the effectiveness of all interventions used to manage a particular disease over time, the stage and intensity of the disease, and the economic, clinical, and patient-prospective outcomes, including quality of life. Rebate information shall be considered during executive sessions and shall assure that confidential rebate information is protected in accordance with federal and state law; and

(m) Recommend to the commissioner the criteria for publication pursuant to KRS Chapter 13A relating to the evaluation and consideration of new products with input from affected parties, including the pharmaceutical industry.

(2) The board shall function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Act. The board may designate subcommittees to address specific issues and to report findings to the board. In conducting its business, the board shall utilize distance communication technologies whenever possible.

(3) Clerical and administrative support shall be provided the board through the Cabinet for Human Resources or by contract.

SECTION 6. A NEW SECTION OF KRS 205.510 TO 205:630 IS CREATED TO READ AS FOLLOWS:

(1) Any recommendation by the board is advisory to the commissioner.

(2) Any interested party may request an opportunity to make a presentation or argument to the board on any item under consideration by the board. The Cabinet for Human Resources shall, establish by administrative regulation promulgated in accordance with KRS Chapter 13A, establish requirements for presentations before the board.

(3) Any interested party who is aggrieved by a recommendation of the board to the commissioner or his designee may submit written exceptions consisting of only new information that was not available to be presented at the time of the board's consideration of the matter. These written exceptions shall be submitted within ten (10) days of the recommendation. After the time for filing exceptions has expired, the commissioner or the commissioner's designee shall consider all exceptions filed in a timely manner prior to acting upon the recommendation of the board. If the deadline for filing written exceptions falls on a Saturday, Sunday, or a state holiday, the exceptions may be filed the following day.

(4) In making a final decision on any recommendation of the board, the commissioner may seek additional and clarifying information from any source. Any additional information submitted to the commissioner shall be made a part of the administrative record supporting the final decision.

(5) An appeal from a decision of the commissioner may be made in accordance with KRS Chapter 13B by a manufacturer of the product. Unless held in abeyance or otherwise addressed by the hearing officer, the decision of the commissioner stands until final disposition of the issue.

Section 7. KRS 205.561 is amended to read as follows:

The cabinet shall submit an annual report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before September 1 of the year. Such report shall include an estimate of the current cost to pharmacies, including associated administrative costs, of dispensing prescription medications to eligible recipients under the provisions of KRS 205.560, the current level of dispensing fee provided by the cabinet, and an estimate of additional revenues required to adequately adjust reimbursement to cover costs for such pharmacies. *The report shall also include current data on the most utilized and abused drugs in Medicaid, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, objectives, and timelines for cost containment in the Medicaid drug program, comparative data from other states, and cost effectiveness of the drug formulary and prior authorization process. The annual report shall be developed with the advice of the Drug Management Review Board created under Section 4 of this Act.*

The House Committee Substitute to **SB 351** is as follows:

AN ACT relating to pharmaceutical services for Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 6 of this Act, "available" means the calendar date when a new drug is first covered on a statewide basis through normal distribution channels for the Medical Assistance Program patients in the Commonwealth.

(2) As used in Sections 1 to 6 this Act, "commissioner" means the commissioner of the Department for Medicaid Services.

(3) As used in Sections 1 to 6 this Act, "new drug" means any entity that is marketed under a product licensing application, new drug application, or a supplement to a new drug application, and prescribed by a health care provider with prescribing authority for a medically accepted indication, except those drugs or classes of drugs identified in 42 U.S.C. section 1396r-8(d)(2), as amended, and that is any of the following:

(a) Any new chemical or molecular entity;

(b) Any new dosage form of an existing chemical or molecular entity;

(c) Any combination of an existing chemical or molecular entity created for a distinct therapeutic purpose; or

(d) Any new indication for an existing chemical or molecular entity approved by the Federal Food and Drug Administration.

SECTION 2. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) No prior authorization shall be required for reimbursement of any claim involving any Medicaid-covered new drug that is available after the effective date of this Act, for a period of at least twelve (12) months, during which time the Drug Management Review Advisory Board may review the product.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A for the drug submission program. Prior to implementation of the administrative regulations, the Drug

Management Review Advisory Board shall review the guidelines.

(3) The Department of Medicaid Services shall, within twenty-four (24) months of the effective date of this Act, analyze drug class reviews of all current drugs requiring prior authorization, and shall continue requiring prior authorization by using drug class reviews, safety, utilization factors, and unusual or extreme costs drivers having inappropriate economic impact on the Department of Medicaid Services, until the review criteria are promulgated by administrative regulations according to KRS Chapter 13A, and pursuant to subsection (2) of Section 3 of this Act. At least fifty percent (50%) of class reviews shall be completed within twelve (12) months of the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Drug Management Review Advisory Board shall coordinate the use of utilization data to identify appropriate use of pharmaceuticals and determine any need for educational interventions. Prospective drug utilization review and retrospective drug utilization review measures shall be utilized to monitor the success of the interventions. Interventions shall be evaluated for a period of not less than six (6) months.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A setting forth the procedures by which all products are placed in the prior authorization drug file.

(3) The commissioner may prior authorize any product that the commissioner determines may pose any significant safety issues or impose an inappropriate financial burden upon the Medicaid program. Placement of a drug on prior authorization by the commissioner shall initiate a review by the Drug Management Review Advisory Board.

(4) Drug reviews related to prior authorization decisions shall not take longer than ninety (90) days.

(5) Implementation and performance of the duties of Sections 1, 2, 3, and 4 of this Act and any drug review shall be performed by the staff of the Cabinet for Human Resources, or its contractors.

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) A Drug Management Review Advisory Board is hereby established and attached to the Cabinet for Human Resources for administrative purposes. The board shall consist of sixteen (16) members to be appointed by the secretary of the Cabinet for Human Resources and shall be constituted as follows:

(a) Five (5) members shall be physicians, one (1) each from the fields of family medicine, internal medicine, pediatrics, and geriatrics. The fifth physician appointed shall be from any other recognized field of medicine. Two (2) of the above indicated physicians shall be representatives of the two (2) current medical schools in the Commonwealth, the University of Kentucky and the University of Louisville Schools of Medicine;

(b) Five (5) members shall be pharmacists, at least one (1) of whom shall be designated as the representative of the University of Kentucky College of Pharmacy;

(c) Two (2) members shall be advanced registered nurse practitioners;

(d) One (1) member shall be an optometrist and one (1) member shall be a physician's assistant;

(e) One (1) member shall be a representative of the Cabinet for Human Resources designated to serve on an ex officio basis; and

(f) One (1) nonvoting member shall be a member of the pharmaceutical manufacturing industry.

(2) (a) The physician members of the board shall be appointed from a list of three (3) qualified physicians for each vacancy submitted by the Kentucky Medical Association.

(b) The pharmacist members of the board shall be appointed from a list of three (3) qualified pharmacists for each vacancy submitted by the Kentucky Pharmacy Association.

(c) The advanced registered nurse practitioner members of the board shall be appointed from a list of three (3) for each vacancy, submitted by the Kentucky Nurses Association.

(d) The optometrist shall be appointed from a list of three (3) qualified optometrists submitted by the Kentucky Optometric Association.

(e) The physician's assistant shall be appointed from a list of three (3) qualified physicians assistants submitted by the Kentucky Board of Medical Licensure.

(3) The secretary may appoint one (1) nonvoting industry representative to be selected from a list of three (3) members nominated from the Pharmaceutical Research and Manufacturers of America. The secretary may request additional names for appointments and current members may be considered for reappointment. All members of the board shall be licensed and actively practicing in their respective professions in the Commonwealth and shall have knowledge or expertise in at least one of the following areas:

(a) The clinically appropriate prescribing, utilization, and evaluation of pharmaceuticals;

(b) The clinically appropriate dispensing and monitoring of pharmaceuticals;

(c) Drug utilization review, pharmacoeconomic and pharmacoepidemiological evaluation and intervention, pharmacotherapeutic intervention methods in disease management using treatment algorithms, critical paths, and other measures that have been well defined and validated; and

(d) Medical quality assurance.

(4) Three (3) of the initially appointed physician members, three (3) of the initially appointed pharmacist members, and one (1) of the initially appointed advanced registered nurse practitioners shall be appointed for a term of one (1) year. The remaining initial members shall be appointed for a term of two (2) years. Subsequent appointments shall be for a term of two (2) years. Members shall serve for no more than three (3) consecutive terms. The board shall designate a chair and vice chair. A member shall serve no more than two (2) consecutive terms as chair.

(5) The first meeting of the board shall take place within thirty (30) days of the appointment of all the members of the board.

(6) The board shall meet at least quarterly, or upon the call of the chair or the commissioner. A majority of the voting members of the board shall constitute a quorum. All meetings shall be conducted in accordance with the provisions of the Open Meetings Act, KRS 61.805-61.850, and all balloting shall take place by roll call vote.

(7) Actions of the board shall require a majority vote of the members present or participating through distance communication technology. No member may vote on a matter where a conflict of interest may exist. The chair may vote on any matter before the board unless a conflict of interest exists.

SECTION 5. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Drug Management Review Advisory Board shall have at least the following duties and responsibilities;

(a) Review and make recommendations to the commissioner or designee on predetermined prospective drug use review standards submitted to the board by the Department for Medicaid Services or its contractor;

(b) Evaluate the use of the predetermined prospective drug use review standards and make recommendations to the commissioner or the commissioner's designee concerning modification or elimination of existing standards and the need for additional standards;

(c) Make recommendations to the commissioner or the commissioner's designee concerning guidelines governing written predetermined standards that pharmacies must use in conducting prospective drug use review if they do not use approved software;

(d) Oversee the retrospective drug use review contract and incorporate the results into predetermined retrospective drug use review standards;

(e) Review and make recommendations to the commissioner or the commissioner's designee on predetermined retrospective drug use standards submitted to the board by the Department for Medicaid Services;

(f) Make recommendations to the commissioner or the commissioner's designee concerning the modification or elimination of existing predetermined retrospective drug use review standards and the need for additional standards;

(g) Identify and develop educational topics on common drug therapy problems if needed to improve prescribing or dispensing practices of practitioners;

(h) Make recommendations to the commissioner or the commissioner's designee concerning which mix of interventions would most effectively lead to an improvement in the quality of drug therapy;

(i) Conduct periodic re-evaluations to determine the effectiveness of educational effort and, if necessary, modify the interventions;

(j) Establish standards for the identification of suspected fraud and abuse;

(k) Prepare and submit to the commissioner an annual drug use review report that contains the following information:

1. A description of the nature and scope of the retrospective drug utilization program including the identity of the contractor, the frequency of screening of claims data and the criteria and standards used, along with new or copies of the clinical criteria, and in subsequent years, a list of revised criteria and deleted criteria;

2. A summary of nonpatient and provider specific educational activities including information on the use of each type of patient and provider specific intervention that indicates the guidelines for use and frequency of use by type of intervention and the effectiveness of each type of intervention on changes in prescribing or dispensing practices;

3. An evaluation of the adequacy of prospective drug use review database software; and

4. Details on policy guidelines adopted by the board pertaining to written criteria that pharmacies may *use if they do not use a computer prospective drug utilization review database;*

(l) Provide advice to the Department for Medicaid Services regarding outpatient drug coverage and the delivery of quality care in the most cost-effective manner possible, giving consideration to the therapeutic equivalence and the cost, including rebate, of drugs and within the context of disease management. In advising the department, the board may consider the effectiveness of all interventions used to manage a particular disease over time, the stage and intensity of the disease, and the economic, clinical, and patient-prospective outcomes, including quality of life. Rebate information shall be considered during executive sessions and shall assure that confidential rebate information is protected in accordance with federal and state law; and

(m) Recommend to the commissioner the criteria for publication pursuant to KRS Chapter 13A relating to the evaluation and consideration of new products with input from affected parties, including the pharmaceutical industry.

(2) The board shall function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Act. The board may designate subcommittees to address specific issues and to report findings to the board. In conducting its business, the board shall utilize distance communication technologies whenever possible.

(3) Clerical and administrative support shall be provided the board through the Cabinet for Human Resources or by contract.

SECTION 6. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) Any recommendation by the board is advisory to the commissioner.

(2) Any interested party may request an opportunity to make a presentation or argument to the board on any item under consideration by the board. The Cabinet for Human Resources shall, establish by administrative regulation promulgated in accordance with KRS Chapter 13A, establish requirements for presentations before the board.

(3) Any interested party who is aggrieved by a recommendation of the board to the commissioner or his designee may submit written exceptions consisting of only new information that was not available to be presented at the time of the board's consideration of the matter. These written exceptions shall be submitted within ten (10) days of the recommendation. After the time for filing exceptions has expired, the commissioner or the commissioner's designee shall consider all exceptions filed in a timely manner prior to acting upon the recommendation of the board. If the deadline for filing written exceptions falls on a Saturday, Sunday, or a state holiday, the exceptions may be filed the following day.

(4) In making a final decision on any recommendation of the board, the commissioner may seek additional and clarifying information from any source. Any additional information submitted to the commissioner shall be made a part of the administrative record supporting the final decision.

(5) An appeal from a decision of the commissioner may be made in accordance with KRS Chapter 13B by a manufacturer of the product. Unless held in abeyance or otherwise addressed by the hearing officer, the decision of the commissioner stands until final disposition of the issue.

Section 7. KRS 205.561 is amended to read as follows:

The cabinet shall submit an annual report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before September 1 of the year. Such report shall include an estimate of the current cost to pharmacies, including associated administrative costs, of dispensing prescription medications to eligible recipients under the provisions of KRS 205.560, the current level of dispensing fee provided by the cabinet, and an estimate of additional revenues required to adequately adjust reimbursement to cover costs for such pharmacies. *The report shall also include current data on the most utilized and abused drugs in Medicaid, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, objectives, and timelines for cost containment in the Medicaid drug program, comparative data from other states, and cost effectiveness of the drug formulary and prior authorization process. The annual report shall be developed with the advice of the Drug Management Review Board created under Section 4 of this Act.*

The Committee on Transportation reported **SB 226**, with House Committee Substitute attached thereto, and **SB 399**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 226, AN ACT relating to highways and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.124 is amended to read as follows:

(1) Except as provided in Section 3 of this Act, an[~~No~~] officer, agent or employee of the *department*[~~Commonwealth of Kentucky, Department of Highways,~~] shall *not* perform or cause to be performed any work or[~~ provide or cause to be~~

~~provided~~] services of any nature beyond the right-of-way limits of any public road*. Except as provided in Section 3 of this Act, a person shall not*[~~, nor shall any person~~] accept the work or services of any officer, agent or employee of the department on private property.

Section 2. KRS 176.126 is amended to read as follows:

[~~No~~]Goods or materials belonging to or under control of the department shall *not* be used in work of any nature beyond the right-of-way limits of any public road *except as provided in Section 3 of this Act and a*[~~, nor shall any~~] person *shall not* accept or permit the use of[~~ such~~] goods or materials on private property *except as provided in Section 3 of this Act*.

SECTION 3. A NEW SECTION OF KRS 176.122 TO 176.128 IS CREATED TO READ AS FOLLOWS:

(1) (a) When a district highway office determines that a threat to the motoring public exists from the imminent danger of trees or other objects on property adjoining the right-of-way limits of a public road falling onto the public road, the district highway office shall promptly notify the property owner of its determination and may, with the permission of the property owner, enter onto the property and take action to remove the danger.

(b) If a property owner notified under paragraph (a) of this subsection declines to grant permission for the district highway office to enter onto the property and fails promptly to remedy the danger by his or her own action, the department may seek immediate injunctive relief in the Circuit Court for the county in which the property is situated. If the court is satisfied that there is a threat of an imminent danger, it shall authorize the district highway office to enter onto the property and take action to remove the danger.

(2) If a district highway office acts under subsection (1) of this section to remove a danger from property, the Transportation Cabinet shall have a lien against the property for the reasonable value of labor and materials used in removing the danger. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings in accordance with this statute and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other subsequent liens, except other state liens, county liens, school board liens, and city taxes and may be enforced by judicial proceeding.

(3) In addition to the remedy prescribed in subsection (2) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached under this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges, and the state may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

Section 4. Whereas due to the heavy rains in late 1997 and the snow melt in several areas of the Commonwealth in early 1998 that could cause many trees to be uprooted and destabilize older structures on many steep hillsides adjoining public highways, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute to **SB 226** is as follows:

AN ACT relating to highways and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.124 is amended to read as follows:

(1) Except as provided in Section 3 of this Act, an[~~No~~] officer, agent or employee of the *department*[~~Commonwealth of Kentucky, Department of Highways,~~] shall *not* perform or cause to be performed any work or[~~ provide or cause to be provided~~] services of any nature beyond the right-of-way limits of any public road*. Except as provided in Section 3 of this Act, a person shall not*[~~, nor shall any person~~] accept the work or services of any officer, agent or employee of the department on private property.

Section 2. KRS 176.126 is amended to read as follows:

[~~No~~]Goods or materials belonging to or under control of the department shall *not* be used in work of any nature beyond the right-of-way limits of any public road *except as provided in Section 3 of this Act and a*[~~, nor shall any~~] person *shall not* accept or permit the use of[~~ such~~] goods or materials on private property *except as provided in Section 3 of this Act*.

SECTION 3. A NEW SECTION OF KRS 176.122 TO 176.128 IS CREATED TO READ AS FOLLOWS:

(1) (a) When a district highway office determines that a threat to the motoring public exists from the imminent danger of trees or other objects on property adjoining the right-of-way limits of a public road falling onto the public road, the district highway office shall promptly notify the property owner of its determination and may, with the permission of the property owner, enter onto the property and take action to remove the danger.

(b) If a property owner notified under paragraph (a) of this subsection declines to grant permission for the district highway office to enter onto the property and fails promptly to remedy the danger by his or her own

action, the department may seek immediate injunctive relief in the Circuit Court for the county in which the property is situated. If the court is satisfied that there is a threat of an imminent danger, it shall authorize the district highway office to enter onto the property and take action to remove the danger.

(2) If a district highway office acts under subsection (1) of this section to remove a danger from property, the Transportation Cabinet may have a lien against the property for the reasonable value of labor and materials used in removing the danger. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings in accordance with this statute and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid.

(3) In addition to the remedy prescribed in subsection (2) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached under this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges, and the state may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

Section 4. KRS 176.070 is amended to read as follows:

(1) After surveys, plans, specifications***,*** and estimates have been completed for any road ***project***[~~or section thereof,~~] and the type and character of the road has been determined, ***the department may***[~~and the right-of-way obtained, the bureau shall~~] advertise by publication pursuant to KRS Chapter 424, for bids on the work***. After the right-of-way has been obtained for any section of a road project, the department***[~~, and~~] may contract for the purchase of all materials necessary for the construction and maintenance of roads ***for that project***.

(2) Before advertising for bids for the construction or reconstruction of any highway, the department may determine the type of improvement desired, and may advertise and receive bids for only the types determined. The advertisement shall make it generally known that the work is to be done, and shall state the place where the bidders may examine the plans and specifications.

Section 5. Whereas due to the heavy rains in late 1997 and the snow melt in several areas of the Commonwealth in early 1998 that could cause many trees to be uprooted and destabilize older structures on many steep hillsides adjoining public highways, an emergency is declared to exist, and Sections 1 to 3 of this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 399, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares the purpose of Sections 1 to 6 of this Act to be the appropriate recognition and preservation of the scenic qualities of many of Kentucky's roadways. Therefore, the General Assembly is creating a state system of scenic byways and scenic highways to preserve and present scenic byways and scenic highways for vehicular, bicycle, and pedestrian travel in an unhurried and leisurely environment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

(1) "Advertising device" means as defined in KRS 177.830;

(2) "Archaeological quality" means those characteristics of the area surrounding a scenic byway or a scenic highway that are physical evidence of historic or prehistoric human life or activity and that are visible and capable of being inventoried and interpreted. The archaeological interest, as identified through ruins, artifacts, structural remains, or other physical evidence shall have scientific significance that educates the viewer and causes the viewer to appreciate the past;

(3) "Cultural quality" means evidence or expressions of the customs or traditions of a distinct group of people. Cultural features shall include, but not be limited to, crafts, music, dance, rituals, festivals, speech, food, special events, and vernacular architecture, as currently practiced. The cultural qualities of the area surrounding a scenic byway or scenic highway may highlight one (1) or more significant communities or ethnic traditions;

(4) "Historic quality" means legacies of the past that are distinctly associated with the physical elements of the landscape, whether natural or manmade, and that are of historic significance, educate the viewer, and cause the viewer to appreciate the past. The historic qualities reflect the actions of people and may include buildings, settlement patterns, or other examples of human activity. Historic qualities may be inventoried, mapped, and interpreted, and they possess integrity of location, design, setting, material, workmanship, feeling, and association;

(5) "Intrinsic quality" means one (1) or more of the following:

(a) Archaeological quality;

(b) Cultural quality;

(c) Historic quality;

(d) Natural quality;

(e) Recreational quality; or

(f) Scenic quality;

(6) "Natural quality" means those features in the visual environment that are in a relatively undisturbed state. These features shall predate the arrival of human populations and may include geological formations, fossils, landforms, water bodies, vegetation, and wildlife. If there is evidence of human activity, the natural features must reveal minimal disturbances;

(7) "Outdoor advertising device" means an advertising device that is not located on the premises of the entity being advertised;

(8) "Recreational quality" means outdoor recreational activities directly associated with and dependent upon the natural and cultural elements of the scenic byway or scenic highway's landscape. The recreational activities shall provide opportunities for active and passive recreational experiences including, but not limited to, downhill skiing, rafting, boating, fishing, hiking, and simple roadway driving. The recreational activities may be seasonal, but the quality and importance of the activities as seasonal operations shall be well recognized;

(9) "Scenic byway" means a highway maintained by a local government that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection, or enhancement;

(10) "Scenic highway" means a state-maintained highway that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection, or enhancement; and

(11) "Scenic quality" means the heightened visual experience derived from the view of the natural and manmade elements of the scenic byway or scenic highway. The characteristics of the landscape are strikingly distinct and offer a pleasing and memorable visual experience. All elements of the landscape, including landform, water, vegetation, and manmade development, must contribute in harmony to the quality of the scenic byway's or scenic highway's visual environment and share in its intrinsic qualities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet, in coordination with the Tourism Cabinet and the Kentucky Heritage Council, shall promulgate administrative regulations under KRS Chapter 13A to establish:

(1) Specific criteria for a road to be designated a scenic byway or a scenic highway;

(2) A process for nominating and review of a road as a scenic byway or scenic highway;

(3) A process for designating a road as a scenic byway or scenic highway; and

(4) A process to remove the scenic designation from a byway or highway if the intrinsic qualities of the road change or if the community affected by the road requests the scenic designation to be removed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

A road may be designated a scenic byway or scenic highway if it has a minimum of one (1) intrinsic quality as defined in Section 1 of this Act; a limit on existing visual intrusions that significantly impact the road; and a local support group that has requested scenic designation for the road and that is committed to maintaining the intrinsic qualities of the area surrounding the road.

SECTION 5. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall attempt to maintain the character of a state-maintained road that has been designated a scenic highway.

(2) The Transportation Cabinet shall erect and maintain appropriate scenic highway identification signs on each road designated a scenic byway or scenic highway.

(3) The Transportation Cabinet shall conduct necessary routine maintenance and care of a state-maintained road designated as a scenic highway.

(4) (a) If the Transportation Cabinet determines that a state-maintained road designated as a scenic highway needs to be altered or improved, the cabinet shall seek public comment on the proposed alteration or improvement as soon as preliminary plans of the alteration or improvement are complete enough for discussion purposes, when:

1. The alteration or improvement may alter the alignment, width, or grade of the scenic highway or the terrain adjoining the scenic highway and would cause a change in one (1) or more of the intrinsic qualities identified in the original application; or

2. The alteration or improvement is included in the six (6) year highway construction plan established under KRS 176.420.

(b) This subsection shall not apply to a resurfacing project that does not require soil grading, removal, or fill of portions of the right-of-way in order to accomplish the resurfacing.

(5) The cabinet shall publish a notice, under the provisions of KRS Chapter 424, describing the proposed alteration or improvement to the scenic highway, and in addition to the requirements of KRS Chapter 424 the notice shall include:

(a) How written comments on the proposed alteration may be submitted; and

(b) The date, time, and location of a public meeting where the cabinet will explain:

1. The necessity for the proposed alteration; and

2. The design considerations the cabinet will use to protect the intrinsic qualities and natural features of the scenic highway.

(6) The cabinet shall maintain a list of persons who have requested to be personally notified of proposed changes to any scenic highway. The cabinet shall by first class mail contact persons on the list with a copy of the notice required under subsection (5) of this section. A person on the list shall be responsible for notifying the cabinet of any change in the person's mailing address.

(7) Within sixty (60) days of the public comment hearing held under subsection (5) of this section, the cabinet shall issue a statement giving consideration to all oral and written comments received prior to or during the public comment hearing. The statement shall identify:

(a) The persons who submitted written comments prior to the public hearing;

(b) The persons who attended the public comment hearing;

(c) A summary of the written comments received prior to the public hearing and the written and oral comments received during the public hearing; and

(d) A response to the comments by the Secretary of the Transportation Cabinet and the state highway engineer.

(8) The cabinet shall provide a copy of the summary required under subsection (7) of this section to any person who requests a copy.

SECTION 6. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall prohibit the erection of an outdoor advertising device adjacent to or visible from a scenic highway on which outdoor advertising devices as defined in Section 2 of this Act are regulated under KRS 177.830 through 177.890.

(2) The status of an outdoor advertising device shall not be changed by a highway being designated as scenic if the outdoor advertising device was legal or designated as nonconforming on the date the highway was designated as scenic.

Section 7. The Transportation Cabinet shall remove the scenic designation from KY 101 and KY 259 in Edmonson County immediately upon the effective date of this Act and shall remove all highway signs on KY 101 and KY 259 indicating the routes are scenic byways or scenic highways. All other roads designated scenic byways or scenic highways by the Transportation Cabinet prior to the effective date of this Act shall retain their designation and be included under the provisions of this Act.

Section 8. If the reorganization of the Tourism Cabinet into the Tourism Development Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Tourism Cabinet appearing in Section 3 of this Act shall be codified as the Tourism Development Cabinet.

The House Committee Substitute to **SB 399** is as follows:

AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares the purpose of Sections 1 to 6 of this Act to be the appropriate recognition and preservation of the scenic qualities of many of Kentucky's roadways. Therefore, the General Assembly is creating a state system of scenic byways and scenic highways to preserve and present scenic byways and scenic highways for vehicular, bicycle, and pedestrian travel in an unhurried and leisurely environment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

(1) "Advertising device" means as defined in KRS 177.830;

(2) "Archaeological quality" means those characteristics of the area surrounding a scenic byway or a scenic highway that are physical evidence of historic or prehistoric human life or activity and that are visible and capable of being inventoried and interpreted. The archaeological interest, as identified through ruins, artifacts, structural remains, or other physical evidence shall have scientific significance that educates the viewer and causes the viewer to appreciate the past;

(3) "Cultural quality" means evidence or expressions of the customs or traditions of a distinct group of people. Cultural features shall include, but not be limited to, crafts, music, dance, rituals, festivals, speech, food, special events, and vernacular architecture, as currently practiced. The cultural qualities of the area surrounding a scenic byway or scenic highway may highlight one (1) or more significant communities or ethnic traditions;

(4) "Historic quality" means legacies of the past that are distinctly associated with the physical elements of the landscape, whether natural or manmade, and that are of historic significance, educate the viewer, and cause the viewer to appreciate the past. The historic qualities reflect the actions of people and may include buildings, settlement patterns, or other examples of human activity. Historic qualities may be inventoried, mapped, and interpreted, and they possess integrity of location, design, setting, material, workmanship, feeling, and association;

(5) "Intrinsic quality" means one (1) or more of the following:

- *(a) Archaeological quality;*
- *(b) Cultural quality;*
- *(c) Historic quality;*
- *(d) Natural quality;*
- *(e) Recreational quality; or*
- *(f) Scenic quality;*

(6) "Natural quality" means those features in the visual environment that are in a relatively undisturbed state. These features shall predate the arrival of human populations and may include geological formations, fossils, landforms, water bodies, vegetation, and wildlife. If there is evidence of human activity, the natural features must reveal minimal disturbances;

(7) "Outdoor advertising device" means an advertising device that is not located on the premises of the entity being advertised;

(8) "Recreational quality" means outdoor recreational activities directly associated with and dependent upon the natural and cultural elements of the scenic byway or scenic highway's landscape. The recreational activities shall provide opportunities for active and passive recreational experiences including, but not limited to, downhill skiing, rafting, boating, fishing, hiking, and simple roadway driving. The recreational activities may be seasonal, but the quality and importance of the activities as seasonal operations shall be well recognized;

(9) "Scenic byway" means a highway maintained by a local government that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection, or enhancement;

(10) "Scenic highway" means a state-maintained highway that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection, or enhancement; and

(11) "Scenic quality" means the heightened visual experience derived from the view of the natural and manmade elements of the scenic byway or scenic highway. The characteristics of the landscape are strikingly distinct and offer a pleasing and memorable visual experience. All elements of the landscape, including landform, water, vegetation, and manmade development, must contribute in harmony to the quality of the scenic byway's or scenic highway's visual environment and share in its intrinsic qualities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet, in coordination with the Tourism Cabinet and the Kentucky Heritage Council, shall promulgate administrative regulations under KRS Chapter 13A to establish:

(1) Specific criteria for a road to be designated a scenic byway or a scenic highway;

(2) A process for nominating and review of a road as a scenic byway or scenic highway;

(3) A process for designating a road as a scenic byway or scenic highway; and

(4) A process to remove the scenic designation from a byway or highway if the intrinsic qualities of the road change or if the community affected by the road requests the scenic designation to be removed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

A road may be designated a scenic byway or scenic highway if it has a minimum of one (1) intrinsic quality as defined in Section 1 of this Act; a limit on existing visual intrusions that significantly impact the road; and a local support group that

has requested scenic designation for the road and that is committed to maintaining the intrinsic qualities of the area surrounding the road.

SECTION 5. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall attempt to maintain the character of a state-maintained road that has been designated a scenic highway.

(2) The Transportation Cabinet shall erect and maintain appropriate scenic highway identification signs on each road designated a scenic byway or scenic highway.

(3) The Transportation Cabinet shall conduct necessary routine maintenance and care of a state-maintained road designated as a scenic highway.

SECTION 6. A NEW SECTION OF KRS CHAPTER 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall prohibit the erection of an outdoor advertising device adjacent to or visible from a scenic highway on which outdoor advertising devices as defined in Section 2 of this Act are regulated under KRS 177.830 through 177.890.

(2) The status of an outdoor advertising device shall not be changed by a highway being designated as scenic if the outdoor advertising device was legal or designated as nonconforming on the date the highway was designated as scenic.

Section 7. The Transportation Cabinet shall remove the scenic designation from KY 101 and KY 259 in Edmonson County immediately upon the effective date of this Act and shall remove all highway signs on KY 101 and KY 259 indicating the routes are scenic byways or scenic highways. All other roads designated scenic byways or scenic highways by the Transportation Cabinet prior to the effective date of this Act shall retain their designation and be included under the provisions of this Act.

Section 8. If the reorganization of the Tourism Cabinet into the Tourism Development Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Tourism Cabinet appearing in Section 3 of this Act shall be codified as the Tourism Development Cabinet.

The Committee on Judiciary reported **SB 217**, with House Committee Substitute attached thereto, **SB 373**, with House Committee Substitute attached thereto, and **SB 376**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 217, AN ACT relating to medical facility standards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) ***"Abortion facility" means any place in which an abortion is performed.***

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(3)[~~(2)~~] "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(4)[~~(3)~~] "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license.

(5)[~~(4)~~] "Cabinet" means the Cabinet for Human Resources.

(6)[~~(5)~~] "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(7)[~~(6)~~] "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(8)[~~(7)~~] "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter.

(9)[~~(8)~~] "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet.

(10)[~~(9)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature.

(11)[~~(10)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(12)[~~(11)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.

(13)[~~(12)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(14)[~~(13)~~] "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices.

(15)[~~(14)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(16)[~~(15)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state.

(17)[~~(16)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet.

(18)[~~(17)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(19)[~~(18)~~] "State health plan" means the document prepared triennially, updated annually, and approved by the Governor.

(20)[~~(19)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(21)[~~(20)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility.

(22)[~~(21)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(23)[~~(22)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person.

(24)[~~(23)~~] "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(25)[~~(24)~~] "To establish" means to construct, develop, or initiate a health facility.

(26)[~~(25)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract.

(27)[~~(26)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to ***abortion facilities;*** any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts unless the physician's office ***is an abortion facility or*** meets the criteria set forth in KRS 216B.015***(4)***[~~(3)~~];

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office ***is an abortion facility or*** meets the criteria set forth in KRS 216B.015***(4)***~~[(3)]~~, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

Section 3. KRS 216B.040 is amended to read as follows:

(1) The cabinet shall have four (4) separate and distinct functions in administering this chapter:

(a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the cabinet;

(b) To issue and to revoke certificates of need;

(c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify, or suspend licenses of health facilities***, abortion facilities,*** and health services issued by the cabinet; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.

(2) The cabinet shall:

(a) Promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. Each proposal approved by the cabinet shall be consistent with the state health plan, and shall be subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth. The state health plan shall contain a need assessment for long-term care beds, which shall be based on a statistically valid analysis of the present and future needs of the state as a whole and counties individually. The need assessment shall be applied uniformly to all areas of the state. The methodology shall be reviewed and updated on an annual basis. The long-term care bed need criteria in the state health plan or as set forth by the appropriate certificate of need authority shall give preference to conversion of personal care beds and acute care beds to nursing facility beds, so long as the state health plan or the appropriate certificate of need authority establishes a need in the affected counties and the proposed conversions are more cost-effective than new construction. The fact that the state health plan shall not address the specific type of proposal being reviewed shall not constitute grounds for disapproval of the proposal;

b. Need and accessibility. The proposal shall meet an identified need in a defined geographic area and be accessible to all residents of the area. A defined geographic area shall be defined as the area the proposal seeks to serve, including its demographics, and shall not be limited to geographical boundaries;

c. Interrelationships and linkages. The proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, shall be judged to be an effective and economical use of resources, not only of capital investment, but also ongoing requirements for health manpower and operational financing;

e. Quality of services. The applicant shall be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services, as established by the cabinet;

f. Hospital-based skilled nursing, intermediate care, and personal care beds shall be considered by the cabinet in determining the need for freestanding long-term care beds.

(b) Conduct public hearings, as requested, in respect to certificate-of-need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The cabinet may:

(a) Issue other administrative regulations necessary for the proper administration of this chapter;

(b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and the process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the cabinet may be made by certified mail, or in the same manner as other process in civil cases, as the cabinet directs;

(c) Establish by promulgation of administrative regulation under KRS Chapter 13A reasonable application fees for certificates of need;

(d) Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter;

(e) Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need; and

(f) Establish a mechanism for biennial review of projects for compliance with the terms of the certificate of need.

Section 4. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by promulgation of administrative regulation under KRS Chapter 13A reasonable application fees for licenses and promulgate other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter;~~[and]~~

(c) ***Except as provided in Section 6 of this Act,*** establish licensure standards and procedures to ensure safe, adequate, and efficient ***abortion facilities,*** health facilities and health services. These regulations, under KRS Chapter 13A, shall include, but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel, and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services, and level of care.

(2) The cabinet may authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated under KRS Chapter 13A by the cabinet.

(3) The cabinet may revoke licenses or certificates of need for specific health facilities***, abortion facilities,*** or health services or recommend the initiation of disciplinary proceedings for health care providers on the basis of the knowing violation of any provisions of this chapter.

Section 5. KRS 216B.105 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall operate any health facility ***or abortion facility*** in this Commonwealth without first obtaining a license issued by the cabinet, which license shall specify the kind or kinds of health services the facility is authorized to provide. A license shall not be transferable and shall be issued for a specific location and, if specified, a designated geographical area.

(2) The cabinet may deny, revoke, modify, or suspend a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated hereunder. The denial, revocation, modification, or suspension shall be effected by mailing to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for the action. The denial, revocation, modification, or suspension shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within the thirty (30) day period, shall file a request in writing for a hearing with the cabinet.

(3) The hearing shall be before a person designated to serve as hearing officer by the secretary.

(4) Within thirty (30) days from the conclusion of the hearing, the findings and recommendations of the hearing officer shall be transmitted to the cabinet, with a synopsis of the evidence contained in the record and a statement of the basis of the hearing officer's findings. The applicant or licensee shall be entitled to be represented at the hearing in person or by counsel, or both, and shall be entitled to introduce testimony by witnesses or, if the cabinet so permits, by depositions. A full and complete record shall be kept of all hearings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to this chapter. The cabinet may adopt the hearing officer's findings and recommendations or prepare written findings of fact and state the basis for its decision which shall become part of the record of the proceedings.

(5) All decisions revoking, suspending, modifying or denying licenses shall be made by the cabinet in writing. The cabinet shall notify the applicant or licensee of the decision.

(6) The decision of the cabinet shall be final for purposes of judicial appeal upon notice of the cabinet's decision.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Abortion facilities shall be regulated only as follows:

(1) Abortion facility operations and services shall be regulated as the operations and services of ambulatory surgical centers.

(2) Abortion facilities shall not be subject to facilities specifications regulations.

(3) The cabinet shall not promulgate or amend any administrative regulation specifically to regulate abortion facilities.

Section 7. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility ***or abortion facility*** without first obtaining a license or continues to operate a health facility ***or abortion facility*** after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement

within the required time frames.

(7) Any boarding home which does not register as required by KRS 216B.305, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered.

Section 8. KRS 214.450 is amended to read as follows:

As used in KRS 214.452 to 214.466, unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood to any health care facility, health service, or health care provider and which is licensed by the United States Food and Drug Administration. Blood establishment does not include autologous blood donation programs permitted under KRS 214.456.

(3) "Blood-borne communicable disease" means any of those diseases which are specifically so defined and set forth in administrative regulation promulgated by the United States Food and Drug Administration.

(4) "Health facility" means any health facility set forth under KRS 216B.015[~~(9)~~] which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any person licensed or certified under the laws of the Commonwealth as a dentist, physician, osteopath, registered nurse, practical nurse, paramedic, emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015[~~(10)~~] and which provides for the transfusion of blood into a living human body.

(7) "Transfuse" means to transfer blood from one (1) person to another.

(8) "Donor" means either a paid or volunteer donor of blood.

(9) "Untested blood" means blood that has not been tested or blood for which test results have not yet been returned.

The House Committee Substitute to **SB 217** is as follows:

AN ACT relating to medical facility standards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) ***"Abortion facility" means any place in which an abortion is performed.***

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(3)[~~(2)~~] "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(4)[~~(3)~~] "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license.

(5)[~~(4)~~] "Cabinet" means the Cabinet for Human Resources.

(6)[~~(5)~~] "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(7)[~~(6)~~] "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(8)[~~(7)~~] "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter.

(9)[~~(8)~~] "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet.

(10)[~~(9)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature.

(11)[~~(10)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(12)[~~(11)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.

(13)[~~(12)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(14)[~~(13)~~] "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices.

(15)[~~(14)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(16)[~~(15)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state.

(17)[~~(16)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer;

and

(h) Any other items required by administrative regulations promulgated by the cabinet.

(18)[~~(17)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(19)[~~(18)~~] "State health plan" means the document prepared triennially, updated annually, and approved by the Governor.

(20)[~~(19)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(21)[~~(20)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility.

(22)[~~(21)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(23)[~~(22)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person.

(24)[~~(23)~~] "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(25)[~~(24)~~] "To establish" means to construct, develop, or initiate a health facility.

(26)[~~(25)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract.

(27)[~~(26)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to ***abortion facilities as defined in Section 1 of this Act;*** any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts***, except any***[~~ unless the~~] physician's office ***that*** meets the criteria set forth in KRS 216B.015***(4)***[~~(3)~~];

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015***(4)***[~~(3)~~], ***or unless the physician's office is also an abortion facility as defined in Section 1 of this Act,*** except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

Section 3. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by promulgation of administrative regulation under KRS Chapter 13A reasonable application fees for licenses and promulgate other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter;[~~ and~~]

(c) Establish licensure standards and procedures to ensure safe, adequate, and efficient ***abortion facilities,*** health facilities and health services. These regulations, under KRS Chapter 13A, shall include, but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel, and minimum standards for maintaining patient records;
2. Licensure application and renewal procedures; and
3. Classification of health facilities and health services according to type, size, range of services, and level of care***; and***

(d) Compile in a single document, maintain, and make available to abortion facilities and the public during regular business hours, all licensure standards and procedures promulgated under KRS Chapter 13A related to abortion facilities.

(2) The cabinet may authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated under KRS Chapter 13A by the cabinet.

(3) The cabinet may revoke licenses or certificates of need for specific health facilities or health services or recommend the

initiation of disciplinary proceedings for health care providers on the basis of the knowing violation of any provisions of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, no later than September 1, 1998, and subject to the provisions of KRS Chapter 13A, promulgate administrative regulations providing licensure standards and procedures for abortion facilities. The cabinet shall begin enforcing the administrative regulations on March 1, 1999.

(2) Any person operating an abortion facility for which a license is required under this chapter may apply for the license prior to March 1, 1999.

(3) Each abortion facility shall report monthly to the cabinet the information required by the cabinet by administrative regulation for each abortion performed in the facility.

(4) Licensed acute-care hospitals shall be exempt from the provisions of this section, except for any reporting requirements issued by the cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Each abortion facility shall enter into a written agreement with a licensed acute-care hospital capable of treating patients with unforeseen complications related to an abortion facility procedure by which agreement the hospital agrees to accept and treat these patients.

(2) If unforeseen complications arise prior to or during an abortion facility procedure, the patient shall be transferred to the licensed acute-care hospital with which the abortion facility has a written agreement as provided under subsection (1) of this section or to the hospital selected by the patient, if the patient so chooses.

(3) Each abortion facility shall enter into a written agreement with a licensed local ambulance service for the transport of any emergency patient within the scope of subsection (1) of this section to the licensed acute-care hospital.

(4) The written agreements of an abortion facility with an acute-care hospital and with a local ambulance service shall be filed by the abortion facility with the cabinet.

Section 6. KRS 214.450 is amended to read as follows:

As used in KRS 214.452 to 214.466, unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood to any health care facility, health service, or health care provider and which is licensed by the United States Food and Drug Administration. Blood establishment does not include autologous blood donation programs permitted under KRS 214.456.

(3) "Blood-borne communicable disease" means any of those diseases which are specifically so defined and set forth in administrative regulation promulgated by the United States Food and Drug Administration.

(4) "Health facility" means any health facility set forth under KRS 216B.015~~[(9)]~~ which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any person licensed or certified under the laws of the Commonwealth as a dentist, physician, osteopath, registered nurse, practical nurse, paramedic, emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015~~[(10)]~~ and which provides for the transfusion of blood into a living human body.

(7) "Transfuse" means to transfer blood from one (1) person to another.

(8) "Donor" means either a paid or volunteer donor of blood.

(9) "Untested blood" means blood that has not been tested or blood for which test results have not yet been returned.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General, upon certification by the secretary of the Cabinet for Human Resources, shall seek injunctive relief in a course of proper jurisdiction to prevent violations of the provisions of KRS Chapter 216B regarding abortion facilities or the administrative regulations promulgated in furtherance thereof in cases where other administrative penalties and legal sanctions imposed have failed to prevent or cause a discontinuance of the violation.

Section 8. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility ***or abortion facility*** without first obtaining a license or continues to operate a health facility ***or abortion facility*** after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has

been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any boarding home which does not register as required by KRS 216B.305, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered.

(8) Any person or entity establishing, managing, or operating an abortion facility or conducting the business of an abortion facility which otherwise violates any provision of this chapter or any administrative regulation promulgated thereunder regarding abortion facilities shall be subject to revocation or suspension of the license of the abortion facility. In addition, any violation of any provision of this chapter regarding abortion facilities or any administrative regulation related thereto by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or by careless, negligent, or incautious disregard for the statute or administrative regulation, either by persons acting individually or in concert with others, shall constitute a violation and shall be punishable by a fine not to exceed one thousand dollars ($1,000) for each offense. Each day of continuing violation shall be considered a separate offense. The venue for prosecution of the violation shall be in any county of the state in which the violation, or any portion thereof, occurred.

Section 9. This Act shall not be construed as repealing any of the laws of the Commonwealth relating to abortion facilities but shall be considered supplementary to them.

Section 10. If any provision of this Act or its application is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SB 373, AN ACT relating to moneys deposited with the circuit clerk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.200 is amended to read as follows:

All moneys which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt.

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court.

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the State Treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth.

(4) Assessed a fee of five percent (5%) of the total value of the deposit, which shall be paid by the depositor at the time of making the deposit and which shall be in addition to the amount deposited. The fee shall be deposited by the clerk into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries to compensate for the additional duties necessitated by this section.

The House Committee Substitute to **SB 373** is as follows:

AN ACT relating to moneys deposited with the circuit clerk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.200 is amended to read as follows:

All moneys which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt.

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court.

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the State Treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth.

(4) In a criminal proceeding, assessed a fee of five percent (5%) of the total value of the deposit, which shall be paid by the depositor at the time of making the deposit and which shall be in addition to the amount deposited. The fee shall be deposited by the clerk into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries to compensate for the additional duties necessitated by this section.

SB 376, AN ACT relating to underinsured motorist coverage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-320 is amended to read as follows:

(1) As used in this section, "underinsured motorist" means a party with motor vehicle liability insurance coverage in an amount less than a judgment recovered against that party for damages on account of injury due to a motor vehicle accident.

(2) Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage not inconsistent with this section the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the liability policy limits thereon, to the extent of the underinsurance policy limits on the vehicle of the party recovering.

(3) If an injured person or, in the case of death, the personal representative agrees to settle a claim with a liability insurer and its insured, and the settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an underinsured motorist claim, then written notice of the proposed settlement must be submitted by certified or registered mail to all underinsured motorist insurers that provide coverage. The underinsured motorist insurer then has a period of thirty (30) days to consider authorization of the settlement or retention of subrogation rights. An injured person, or in the case of death, the personal representative, may agree to settle a claim with a liability insurer and its insured for less than the underinsured motorist's full liability policy limits. If an underinsured motorist insurer authorizes settlement or fails to respond as required by subsection (4) of this section to the settlement request within the thirty (30) day period, the injured party may proceed to execute a full release in favor of the underinsured motorist's liability insurer and its insured and finalize the proposed settlement without prejudice to any underinsured motorist claim.

(4) If an underinsured motorist insurer chooses to preserve its subrogation rights by refusing permission to settle, the underinsured motorist insurer must, within thirty (30) days after receipt of the notice of the proposed settlement, pay to the injured party the amount of the written offer from the underinsured motorist's liability insurer. Thereafter, upon final resolution of the underinsured motorist claim, the underinsured motorist insurer is entitled to seek subrogation against the underinsured motorist and the liability insurer for the amounts paid to the injured party.

(5) The underinsured motorist insurer is entitled to a credit against total damages in the amount of the limits of the underinsured motorist's liability policy in all cases to which this section applies, even if the settlement with the underinsured motorist under subsection (3) of this section or the payment by the underinsured motorist insurer under subsection (4) of this section is for less than the underinsured motorist's full liability policy limits. The term "total damages" as used in this section means the full amount of damages determined to have been sustained by the injured party, regardless of the amount of underinsured motorist coverage. Nothing in this section, including any payment or credit under this subsection, reduces or affects the total amount of underinsured motorist coverage available to the injured party.

The House Committee Substitute to **SB 376** is as follows:

AN ACT relating to underinsured motorist coverage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-320 is amended to read as follows:

(1) As used in this section, "underinsured motorist" means a party with motor vehicle liability insurance coverage in an amount less than a judgment recovered against that party for damages on account of injury due to a motor vehicle accident.

(2) Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the

terms and conditions of such coverage not inconsistent with this section the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the liability policy limits thereon, to the extent of the underinsurance policy limits on the vehicle of the party recovering.

(3) If an injured person or, in the case of death, the personal representative agrees to settle a claim with a liability insurer and its insured, and the settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an underinsured motorist claim, then written notice of the proposed settlement must be submitted by certified or registered mail to all underinsured motorist insurers that provide coverage. The underinsured motorist insurer then has a period of thirty (30) days to consent to the settlement or retention of subrogation rights. An injured person, or in the case of death, the personal representative, may agree to settle a claim with a liability insurer and its insured for less than the underinsured motorist's full liability policy limits. If an underinsured motorist insurer consents to settlement or fails to respond as required by subsection (4) of this section to the settlement request within the thirty (30) day period, the injured party may proceed to execute a full release in favor of the underinsured motorist's liability insurer and its insured and finalize the proposed settlement without prejudice to any underinsured motorist claim.

(4) If an underinsured motorist insurer chooses to preserve its subrogation rights by refusing to consent to settle, the underinsured motorist insurer must, within thirty (30) days after receipt of the notice of the proposed settlement, pay to the injured party the amount of the written offer from the underinsured motorist's liability insurer. Thereafter, upon final resolution of the underinsured motorist claim, the underinsured motorist insurer is entitled to seek subrogation against the underinsured motorist and the liability insurer to the extent of its limits of liability insurance for the amounts paid to the injured party.

(5) The underinsured motorist insurer is entitled to a credit against total damages in the amount of the limits of the underinsured motorist's liability policies in all cases to which this section applies, even if the settlement with the underinsured motorist under subsection (3) of this section or the payment by the underinsured motorist insurer under subsection (4) of this section is for less than the underinsured motorist's full liability policy limits. The term "total damages" as used in this section means the full amount of damages determined to have been sustained by the injured party, regardless of the amount of underinsured motorist coverage. Nothing in this section, including any payment or credit under this subsection, reduces or affects the total amount of underinsured motorist coverage available to the injured party.

The Committee on State Government reported **SB 26** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute to **SB 26** is as follows:

AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service***[~~services~~] because of ***any of the following:***

- ***(a) Religious opinions or affiliations;***
- ***(b) Ethnic origins;***
- ***(c) Sex;***
- ***(d) Age, if over forty (40);***
- ***(e) Disability; or***
- ***(f) Political activities permitted under the provisions of this Act***[~~his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age~~].

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) ***An employee in the classified service may:***

- ***(a) Be a candidate for public office in a nonpartisan election;***

(b) Register to vote;

(c) Assist in voter registration drives;

(d) Express opinions about candidates and issues;

(e) Contribute money to a political campaign;

(f) Attend political fundraising functions;

(g) Campaign for or against referendum questions, constitutional amendments, or municipal ordinances; and

(h) Campaign for or against candidates in partisan elections. ~~[No employee in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.]~~

(4) No employee in the classified service or member of the board or its executive director shall*:*

(a) Use official authority or influence to interfere with an election;

(b) Solicit or discourage political activity of anyone doing business with that individual's respective agency;

(c) Solicit or receive any political contributions;

(d) Be a candidate for public office in a partisan election;

(e) Wear political buttons while on duty;

(f) Engage in political activities while:

1. On duty;

2. In a government office;

3. Wearing an official uniform; or

4. Using a government vehicle; or

(g) Take part in the management of any political party or in the management of a political campaign.

(5) No person shall:

(a) Request, demand, levy, solicit, or require a contribution, payment, assessment, subscription, service, or activity from an employee in the classified service for any of the activities specified in subsection (3) of this section;

(b) Threaten or cause an employee in the classified service to be threatened, in any manner, with the loss of employment, denial of promotion, demotion, reprisal, or any other action for activities permitted by subsection (3) of this section, or because of the support, or failure or refusal to support a political candidate, party, issue, campaign, or because the employee takes part or refuses to take part in activities governed by subsection (3) of this section; and

(c) Use his or her authority or influence to commit, encourage, request, demand, or solicit an act prohibited by the provisions of this section. ~~[be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.]~~

Section 2. KRS 151B.090 is amended to read as follows:

(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political *activities permitted under the provisions of this section,* ~~[or]~~ religious opinions or affiliations, ethnic origin, sex, disability, or age.

(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.

(3) *Any certified or equivalent employee may:*

(a) Be a candidate for public office in a nonpartisan election;

(b) Register to vote;

(c) Assist in voter registration drives;

(d) Express opinions about candidates and issues;

(e) Contribute money to a political campaign;

(f) Attend political fundraising functions;

(g) Campaign for or against referendum questions, constitutional amendments, or municipal ordinances; and

(h) Campaign for or against candidates in partisan elections.~~[No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee.]~~

(4) No certified *employee,*~~[or]~~ equivalent employee*, member of the board, or its executive director* shall*:*

(a) Use official authority or influence to interfere with an election;

(b) Solicit or discourage political activity of anyone doing business with that individual's respective agency;

(c) Solicit or receive any political contributions;

(d) Be a candidate for public office in a partisan election;

(e) Wear political buttons while on duty;

(f) Engage in political activities while:

1. On duty;

2. In a government office;

3. Wearing an official uniform; or

4. Using a government vehicle; or

(g) Take part in the management of any political party or in the management of a political campaign.

(5) No person shall:

(a) Request, demand, levy, solicit, or require a contribution, payment, assessment, subscription, service, or activity from an employee in the classified service or equivalent employee for any of the activities specified in subsection (3) of this Section;

(b) Threaten or cause an employee in the classified service or equivalent employee to be threatened, in any manner, with the loss of employment, denial of promotion, demotion, reprisal, or any other action for activities permitted by subsection (3) of this section, or because of the support, or failure or refusal to support a political candidate, party, issue, campaign, or because the employee takes part or refuses to take part in activities governed by subsection (3) of this section; and

(c) Use his authority or influence to commit, encourage, request, demand, or solicit an act prohibited by the provisions of this section.

(6) Any person who willfully violates any provision in this section shall be guilty of a Class B misdemeanor;

(7) Any person, other than an employee or officer, who is convicted of a violation of this section shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.

(8) Any officer or employee in the classified service who is convicted of a violation of this section shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of this section shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.~~[be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.]~~

Section 3. KRS 18A.990 is amended to read as follows:

(1) Any person who willfully violates any provision of KRS 18A.005 to 18A.200 or of the *administrative regulations promulgated thereunder*~~[rules]~~ shall be guilty of a *Class B* misdemeanor~~[, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail]~~.

(2) Any person*, other than an officer or employee,* who is convicted of a *violation of the provisions*~~[misdemeanor]~~ under KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or

position.

(3) Any officer or employee ***in***~~[of]~~ the classified service who ***is convicted of a violation*** ~~[willfully violates any]~~of the provisions of KRS 18A.140 shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

Section 4. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities ***assigned***~~[assumed]~~, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position

establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates;~~[and]~~
3. The state's financial resources***; and***
4. ***The plan may also authorize provisions for a performance award to individual employees based on generation of federal funds under federal programs which create performance incentives. Only federal funds designated for performance incentives may be used to pay the performance award. No state funds shall be used for incentive awards authorized in this section***.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the commissioner for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility ***and pilot programs as authorized by this chapter***; and

(l) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 5. KRS 18A.405 is amended to read as follows:

(1) There is created a Personnel ***Pilot*** Steering Committee which shall be attached to the ***Department of Personnel***[~~Finance and Administration Cabinet~~] for administrative purposes. The Department of Personnel shall provide technical assistance and support services to the committee.

(2) The membership of the Personnel ***Pilot*** Steering Committee shall be appointed by the Governor and shall consist of:

(a) ***One (1) member***[~~Two (2) members~~] from the ***former Personnel Steering Committee and one (1) member from a list of three (3) candidates proposed by the chief project officer for "Empower Kentucky"***[~~Governor's Commission on Quality and Efficiency established by Executive Order 93-282. At least one (1) of these members shall also be a member of the Career Service System Task Force created by Executive Order 93-1139~~];

(b) Two (2) members from ***the*** private ***business sector***[~~industry, at least one of whom shall also be a member of Career Service System Task Force~~];

(c) One (1) employee with status who has at least ten (10) years of experience in an Executive Department agency other than the Department of Personnel;

(d) One (1) employee with status in a management classification in an Executive Department agency other than the Department of Personnel;

(e) Two (2) Department of Personnel employees[~~ with status~~] who have personnel system experience; and

(f) One (1) member who is either a member of the Personnel Board, or a member of its staff.

(3) No less than four (4) nor more than six (6) of the persons appointed to serve on the Personnel ***Pilot*** Steering Committee shall be employees with status under this chapter.

(4) The employees with status under this chapter who are appointed ***pursuant to subsections (1)(c) and (1)(d) of this section*** to the Personnel ***Pilot*** Steering Committee shall be appointed by the Governor from lists provided by state employee organizations as set forth in this subsection. Any state employee organization having at least two hundred fifty (250) members as of January 1, ***1998***[~~1994~~], may submit the names of two (2) employees with status to the Governor on or before fifteen (15) days after July 15, ***1998***[~~1994~~]. The Governor shall select the appointees from a list that is comprised of names of employees submitted by all of the state employee organizations as provided by this subsection which have been compiled into a single list.

(5) The committee's chairman shall be elected by and from the members of the committee for a one (1) year term at the first meeting of the committee and annually thereafter.

(6) If they are not reimbursed by a state agency in which they are employed, Personnel ***Pilot*** Steering Committee members shall be reimbursed for travel to meetings at the established state rate for travel expenses from the budget of the ***Department of Personnel***[~~Finance and Administration Cabinet~~].

Section 6. KRS 18A.410 is amended to read as follows:

The Personnel ***Pilot*** Steering Committee shall:

(1) Oversee all Executive Department pilot personnel programs, including the selection of the organizational units authorized to participate in a pilot personnel program;

(2) Monitor and evaluate all Executive Department pilot personnel programs;

(3) Prepare status reports;

(4) Prepare a final report ***upon the conclusion of individual pilot programs***;

(5) Make recommendations ***based upon pilot project experience to the commissioner of the Department of Personnel*** for legislation to the[~~ 1996 and 1998~~] Regular Sessions of the Kentucky General Assembly; and

(6) Report at least ***annually***[~~quarterly~~] to the Legislative Research Commission's Interim Joint Committee on Appropriations and Revenue. This report shall include the amount of money saved by the pilot personnel programs[~~ and how the money was or is to be spent~~].

Section 7. KRS 18A.420 is amended to read as follows:

Within thirty (30) days of July 15, ***1998***[~~1994~~], the Personnel ***Pilot*** Steering Committee shall begin accepting applications for pilot personnel programs from organization units within eligible Executive Department agencies. Prior to final approval of a pilot program, the committee shall consult with the commissioner of the Department of Personnel. After consulting with the commissioner, the committee shall make its final selections[~~ and report them to the Career Service System Task Force~~]. Upon notification by the steering committee, the commissioner of the Department of Personnel shall take any administrative action deemed necessary to accomplish the implementation of the selected programs.

Section 8. KRS 18A.425 is amended to read as follows:

(1) Each pilot agency shall prepare and submit ***semi-annual***[~~quarterly~~] reports to the Personnel ***Pilot*** Steering Committee. The committee shall review the reports and send them on to the Governor, the Interim Joint Committee on State Government, and the Legislative Research Commission.

(2) The Personnel ***Pilot*** Steering Committee itself shall submit a comprehensive report to the ***commissioner of the Department of Personnel and the*** Governor at least sixty (60) days prior to ***each***[~~the 1996 and 1998~~] Regular ***Session***[~~Sessions~~] of the Kentucky General Assembly. This report shall give the status of the pilot personnel programs and procedures utilized by the Executive Department personnel system.

Section 9. KRS 18A.430 is amended to read as follows:

(1) (a) The pilot agency shall develop a comprehensive employment manual establishing conditions of employment for employees in each organizational unit. Each manual shall be approved by the Personnel ***Pilot*** Steering Committee prior to the implementation of its pilot personnel program. It shall specify the terms and conditions of employment for employees of each organizational unit.

(b) The employment manual shall be promulgated by administrative regulation pursuant to the provisions of KRS Chapter 13A and shall contain a clear explanation of the statutes governing employee actions relating to dismissal, suspension, disciplinary fine, layoff, or status, and the reasons employee actions may be taken.

(c) The head of the agency in which the pilot program is located shall be responsible for preparing and submitting the administrative regulations required by this section to the ***commissioner of the Department of Personnel***[~~secretary of the Finance and Administration Cabinet~~] for promulgation pursuant to KRS Chapter 13A.

(d) Policies relating to specific implementation of the pilot personnel program, other than conditions of employment, shall be exempt from the provisions of KRS Chapter 13A and shall be explained in detail in the reports required by KRS 18A.410.

(e) For purposes of the approved pilot programs, only those sections of this chapter relating to the subject of the pilot programs shall be suspended and in no event shall the following sections be suspended: KRS 18A.095 relating to the rights of executive department employees and the prohibition of ex parte communications, KRS 18A.113 relating to general lay-off rules, KRS 18A.1131 relating to lay-off rules applicable to classified employees only, KRS 18A.1132 relating to lay-off rules applicable to both classified and unclassified employees, KRS 18A.130 relating to reemployment of career employees terminated on or after January 1, 1980, and KRS 18A.135 relating to the reemployment of career employees.

(2) A pilot personnel program shall:

(a) Become effective upon completion of the administrative regulatory procedure established by KRS Chapter 13A and subsection 1 of this section; and

(b) Expire no later than ***three (3) years after implementation***[~~July 15, 1998,~~] unless the expiration date is extended by statute***, but in no event shall a pilot personnel program be in existence during or beyond two (2) regular sessions of the General Assembly***.

(3) No pilot personnel program proposed after the effective date of this Act shall become effective until the program has been presented for review by the Interim Joint Committee on State Government.

Section 10. KRS 18A.435 is amended to read as follows:

An employee in a pilot program may submit a request to the commissioner of the Department of Personnel for transfer to another state position if a vacancy in that position exists.[~~ The commissioner shall make every effort to accommodate this request.~~]

Section 11. KRS 18A.440 is amended to read as follows:

(1) The Personnel ***Pilot*** Steering Committee shall consider organizational units for the pilot personnel program based on the following:

(a) The advantage gained by the organizational unit in the fulfillment of its statutory mission and improved service to the taxpayer;

(b) The program goals and objectives which would operate to create a high performance workplace[~~ as outlined in the first report of the Governor's Commission on Quality and Efficiency,~~] which may include:

1. Increased employee involvement;
2. Continuous improvement of operating systems and customer services;
3. Decision-making at all levels of the organization;
4. Manager and employee training in high involvement skills;
5. Defined measures that recognize success; and
6. Improved means of lawful employee negotiations.

(c) The method by which the organizational unit would identify benchmarks for the measurement of the effectiveness of the pilot program, including periodic employee and customer evaluations of the pilot program;

(d) Evidence of support for the pilot program by a majority of the employees to be involved in the proposed pilot program ***as determined by a***[~~ The~~] Governmental Services Center[~~ shall develop a~~] survey ***which shall***[~~to~~]

measure employee support for the proposed pilot programs. In organizational units for which pilot programs are considered, the Governmental Services Center shall also devise a process which insures confidentiality in the administration of and the tabulation of the results of the survey; and

(e) Additional information which may be requested by the Personnel ***Pilot*** Steering Committee to consider an agency's application, including but not limited to:

1. Training plans for managers and employees;
2. Identification of fiscal and personnel resources; and
3. A proposed agency coordinator for the project.

(2) The Personnel ***Pilot*** Steering Committee's recommendation of organizational units for the pilot personnel programs shall not affect more than fifteen percent (15%) of the permanent, full-time state employees employed as of July 15, ***1998***~~[1994]~~, except as provided in KRS 18A.450.

SECTION 12. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Personnel, on the recommendation of the Personnel Pilot Steering Committee, may extend those portions of pilot programs which were developed and approved for the purpose of maintaining a pool of available applicants for social services programs and the alternative classification and pay system until December 15, 1998;

(2) Those portions of pilot programs in effect July 1, 1998, dealing with performance evaluation shall be subject to the provisions of KRS Chapter 18A and may continue until January 1, 2000, at which time the performance evaluation system shall be presented to the General Assembly for consideration for enactment into law.

Section 13. The following KRS section is repealed:

18A.445 Use of savings attributed to agency's pilot personnel program – Authority for administrative regulations.

The Committee on State Government reported **SB 92,** with House Committee Substitute attached thereto, **SB 252,** with House Committee Substitute attached thereto, **SB 361, SB 438,** and **SB 390** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 92, AN ACT relating to the flag of the United States.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

A person may display a flag of the United States which is no larger than three (3) feet by five (5) feet from the person's residence, regardless of whether the person owns or leases the residence, provided that the flag is displayed in such a manner as is deemed proper by state or federal law, including 36 U.S.C. secs. 173 et seq. Any agreement contravening this right shall be void and unenforceable in any court of the Commonwealth. No person shall discriminate or retaliate against a person who properly displays the flag of the United States in conformity with this section and not in contravention of any other statute or administrative regulation directly regulating the flag's display. This section shall supplement, and not limit or abridge in any manner, the right of persons to otherwise display the flag of the United States.

The House Committee Substitute to **SB 92** is as follows:

AN ACT relating to the flag of the United States.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any agreement or restrictions contravening a person's right to display a flag, that person may display a flag of the United States which is no larger than two (2) feet by three (3) feet from the person's residence, regardless of whether the person owns or leases the residence, provided that the flag is displayed in such a manner as is deemed proper by state or federal law, including 36 U.S.C. sec. 173 et seq. Any agreement contravening this right shall be void and unenforceable in any court of the Commonwealth. No person shall discriminate or retaliate against a person who properly displays the flag of the United States in conformity with this section and not in contravention of any other statute or administrative regulation directly regulating the flag's display. This section shall supplement, and not limit or abridge in any manner, the right of persons to otherwise display the flag of the United States.

SB 252, AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:[~~The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.~~]

(1) "Business" ***means***[~~shall mean~~] any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted***;***[~~.~~]

(2) "Change order" ***means***[~~shall mean~~] a written order signed by the purchasing officer, directing the contractor to make changes ***that***[~~which~~] the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor***;***[~~.~~]

(3) "Chief purchasing officer" ***means***[~~shall mean~~] the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177***,*** and 180***;***[~~.~~]

(4) "Construction" ***means***[~~shall mean~~] the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property***;***[~~.~~]

(5) "Contract" ***means***[~~shall mean~~] all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It ***includes***[~~shall include~~] awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It[~~ also~~] includes supplemental agreements with respect to any of the foregoing***;***[~~.~~]

(6) "Contract modification" ***means***[~~shall mean~~] any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It ***includes***[~~shall include~~] bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option***;***[~~.~~]

(7) "Contractor" ***means***[~~shall mean~~] any person having a contract with a governmental body***;***[~~.~~]

(8) "Data" ***means***[~~shall mean~~] recorded information, regardless of form or characteristic***;***[~~.~~]

(9) "Designee" ***means***[~~shall mean~~] a duly authorized representative of a person holding a superior position***;***[~~.~~]

(10) "Employee" ***means***[~~shall mean~~] an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body***;***[~~.~~]

(11) "Governmental body" ***means***[~~shall mean~~] any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of[~~ the executive or legislative branch of the~~] state government***;***[~~.~~]

(12) ***"Memorandum of agreement" means any contract or understanding between a governmental body and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources to carry out a governmental function and any program administration contract that involves an exchange of resources or responsibilities to carry out a governmental function. The term shall not include exchanges of confidential personal information between agencies, or agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority. The term shall not include any obligations or payments for reimbursing the cost of corrective action made pursuant to KRS 224.60-140;***[~~"May" shall mean permissive.~~]

(13) "Negotiation" ***means***[~~shall mean~~] contracting by either the method set forth in KRS 45A.085, 45A.090***,*** or 45A.095***;***[~~.~~]

(14) "Person" ***means***[~~shall mean~~] any business, individual, organization***,*** or group of individuals***;***[~~.~~]

(15) "Procurement" ***means***[~~shall mean~~] the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It ***includes***[~~shall also include~~] all functions that pertain to the ***procurement***[~~obtaining~~] of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration***;***[~~.~~]

(16) "Purchase request" or "purchase requisition" ***means***[~~shall mean~~] that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025***;***[~~.~~]

(17) "Purchasing agency" ***means***[~~shall mean~~] any governmental body ***that***[~~which~~] is authorized by this code or its implementing ***administrative*** regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer***;***[~~.~~]

(18) "Purchasing officer" ***means***[~~shall mean~~] any person authorized by a governmental body in accordance with procedures prescribed by ***administrative*** regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term ***includes***[~~shall also include~~] an authorized representative acting within the limits of authority***;***[~~.~~]

(19) "Services" ***means***[~~shall mean~~] the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports ***that***[~~which~~] are merely incidental to the required performance of services***;***[~~.~~]

(20)[~~ "Shall" shall mean imperative.~~

~~(21)~~] "Supplemental agreement" ***means***[~~shall mean~~] any contract modification ***that***[~~which~~] is accomplished by the mutual action of the parties***;***[~~.~~]

(21)[~~(22)~~] "Supplies" ***means***[~~shall mean~~] all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land***; and***[~~.~~]

(22)[~~(23)~~] "Using agency" ***means***[~~shall mean~~] any governmental body of the state ***that***[~~which~~] utilizes any supplies, services***,*** or construction purchased under this code.

Section 2. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) ***"Committee" means the Government Contract Review Committee of the Legislative Research Commission;***

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c)[~~(b)~~]"Governmental emergency" means an unforeseen event or set of circumstances ***that***[~~which~~] creates an emergency condition as ***determined by the committee by promulgation of an administrative regulation***[~~defined in KRS 45A.095(3)~~];

(d)[~~(c)~~]***"Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, or similar device, relating to services between a governmental body and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. The term shall not include exchanges of confidential personal information between agencies, or agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority. The term shall not include any obligations or payments for reimbursing the cost of corrective action made pursuant to KRS 224.60-140;***[~~"Subcommittee" means the Personal Service Contract Review Subcommittee of the Legislative Research Commission; and~~]

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one contract;

(f)[~~(d)~~]"Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain ***services requiring professional skill or professional judgment***[~~duties, professional or otherwise,~~] for a specified period of time ***at***[~~for~~] a price agreed upon***. It includes all price contracts between a governmental body or political subdivision of the commonwealth and any other entity in any amount***[~~which is exempt from competitive bidding pursuant to KRS 45A.095~~]. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, ***providers of direct*** Medicaid ***health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Human Resources***[~~providers~~], individuals performing homemaker services, and transit authorities;

3. [~~Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision;~~

~~4.~~]Agreements between state universities ***or colleges*** and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;[~~ and~~]

4.[~~5.~~] Agreements between a state agency and rural concentrated employment programs***;***[~~.~~]

5.[~~6.~~] Agreements between the State Fair Board and judges, officials and entertainers contracted for events promoted by the State Fair Board***; or***

6. Agreements involving child support, collection and enforcement.

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract ***or memorandum of agreement*** valid.

Section 3. KRS 45A.695 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** no one shall begin work on a personal service contract ***entered into***~~[made]~~ by any contracting body,~~[except as provided in subsection (8) of this section,]~~ until ***notification***~~[after a copy]~~ of the personal service contract is filed with the ***committee***~~[Legislative Research Commission]~~. Each ***personal*** service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each~~[copy of a proposed]~~ personal service contract ***and memorandum of agreement shall be filed with the committee prior to the effective date and***~~[submitted to the Legislative Research Commission]~~ shall be accompanied by ***a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically*** documentation of:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;~~[and]~~

(c) ***The total projected cost of the contract or agreement and source of funding;***

(d) The total projected duration of the contract;

(e) Detailed payment information;

(f) In the case of memoranda of agreement and similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate~~[In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3)]~~.

(3) Adequate notice of the need for ***a personal service contract***~~[the services]~~ shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or ***his***~~[a]~~ designee~~[of the officer]~~ may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or ***his***~~[a]~~ designee~~[of the officer]~~, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The ***committee***~~[Legislative Research Commission]~~ shall ***maintain a record or have readily accessible records of the date on which***~~[cause to be endorsed on the copies of]~~ each personal service contract ***and memorandum of agreement was received***~~[submitted the time and date of the filing]~~ and shall maintain ***or have access to electronic or paper files on all***~~[a file of]~~ personal service contracts ***and memoranda of agreement***~~[for public inspection, with suitable indexes]~~. ***All personal service contracts and memoranda of agreement shall be made available for public inspection.***

(7) Payment on ***personal service*** contracts ***and memoranda of agreement*** submitted to the ***committee for approval***~~[subcommittee]~~ shall not be made ***for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates the contract or memorandum is canceled upon disapproval by the committee, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet***~~[before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary]~~.

(8) In the event of a governmental emergency ***as defined under KRS 45A.095***, work may begin prior to filing ***notification***~~[a~~

~~copy~~] of the personal service contract with the ***committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and***[~~Legislative Research Commission providing that~~] the normal process will not accommodate the ***governmental*** emergency. ***Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.***

(9) If ***a governmental***[~~an~~] emergency exists ***as defined under KRS 45A.095*** and work is authorized to begin ***on a personal service contact*** immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet ***or his designee***, setting forth in detail the nature of the emergency shall be filed with the ***committee, along with a*** copy of the personal service contract.

Section 4. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts ***in aggregate amounts of***[~~on which the estimated cost does not exceed~~] one thousand dollars ($1,000) ***or less during any one fiscal year*** shall be exempt from ***routine*** review by the ***committee and***[~~subcommittee. Personal service contracts of one thousand dollars ($1,000) or less~~] shall be filed with the ***committee not more than thirty (30) days after***[~~subcommittee prior to~~] their effective date[~~ pursuant to KRS 45A.695~~] for informational purposes ***only. The committee shall examine all personal service contracts in aggregate amounts of one thousand dollars ($1,000) or less submitted more than thirty (30) days after the effective date***. The ***committee may***[~~subcommittee shall~~] periodically examine the informational copies of personal service contracts ***in aggregate amounts*** of[~~ less than~~] one thousand dollars ($1,000) ***or less***[~~and payment of less than one thousand dollars ($1,000) for personal services~~] and may request agency participation in discussions relative to their contracts or payments. ***The provisions of this subsection shall not apply to price contracts.***

(2) ***Memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less during in any one fiscal year shall be exempt from routine review by the committee. Memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.***

(3) [~~All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates.~~]If a personal service contract of less than one thousand dollars ($1,000) is amended to the extent the amended total of the contract exceeds one thousand dollars ($1,000) per ***fiscal***[~~calendar~~] year ***per contractor***, the amended contract shall be placed on the agenda for the ***committee's routine***[~~subcommittee's~~] review. ***The provisions of this subsection shall not apply to price contracts.***

(4) If a memorandum of agreement or price contracts of less than fifty thousand dollars ($50,000) is amended to the extent the amended total of the agreement exceeds fifty thousand dollars ($50,000) per fiscal year per governmental body, the amended agreement or contract shall be placed on the agenda for the committee's routine review.

Section 5. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent ***committee***[~~subcommittee~~] of the Legislative Research Commission to be known as the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]. The ***committee***[~~subcommittee~~] shall be composed of seven (7) members ***that***[~~which~~] shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the ***committee***[~~subcommittee~~] from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as ***chairperson***[~~chairman~~]. Any vacancy ***that***[~~which~~] may occur in the membership of the ***committee***[~~subcommittee~~] shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The ***committee***[~~subcommittee~~] shall meet monthly at ***the***[~~such~~] time and place as the ***chairperson***[~~chairman~~] may determine. ***A quorum shall require at least four (4) members present and the vote shall be by majority.*** The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the ***committee***[~~subcommittee~~] shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts ***and memoranda of agreement*** received by the Legislative Research Commission shall be submitted to the ***committee***[~~subcommittee~~] to:

(a) Examine the stated need for the[~~ contract~~] service;

(b) Examine whether the service could or should be performed by state personnel;[~~ and~~]

(c) Examine the ***amount***[~~cost~~] and duration of the contract ***or agreement***. If the ***committee***[~~subcommittee~~] believes that the contract service ***or agreement***, other than an emergency contract approved by the ***secretary of the Finance and Administration Cabinet or his designee***[~~Governor~~], is not needed ***or inappropriate***, the service could and should be performed by state personnel ***on whom the budgetary or statutory obligation is conferred***, the ***amount***[~~cost~~] is excessive, or the duration is excessive, the ***committee***[~~subcommittee~~] shall attach a written notation of the reasons for its disapproval or objection to the personal service contract ***or memorandum of agreement*** and shall return the personal service contract ***or memorandum of agreement*** to the secretary of the Finance and Administration Cabinet ***or his designee***.[~~ The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission.~~] The ***committee***[~~subcommittee~~] shall act on a personal service contract ***or memorandum of agreement*** submitted to the Legislative Research Commission within forty-five (45) days of the ***date received; and***

(d) Examine the appropriateness of any exchange of resources or responsibilities[~~submission of the personal service contract~~].

(5) Upon receipt of the ***committee's***[~~subcommittee's~~] disapproval or objection to a personal service contract ***or memorandum of agreement***, the secretary of the Finance and Administration Cabinet ***or his designee*** shall determine whether ***the***[~~a~~] personal service contract ***or memorandum of agreement shall***:

(a) [~~Shall~~]Be revised to comply with the objections of the ***committee***[~~subcommittee~~];

(b) [~~Shall~~]Be ***canceled***[~~cancelled if disapproved by the subcommittee~~]; or

(c) [~~Shall~~]Remain effective as originally approved[~~ by the Finance and Administration Cabinet~~].

(6) The secretary of the Finance and Administration Cabinet ***or his designee*** shall notify the ***committee***[~~subcommittee~~] of the action taken on personal service contracts ***and memoranda of agreement disapproved or objected to***[~~ referred to the Finance and Administration Cabinet by the subcommittee~~] within thirty (30) days from the date the ***personal service*** contracts ***or memoranda of agreement*** were reviewed by the ***committee***[~~subcommittee~~].

(7) ***Contracting bodies***[~~The subcommittee~~] shall ***make annual reports*** [~~report monthly~~] to the ***committee not later than December 1st of each year. The committee shall establish reporting procedures for contracting bodies related to***[~~Legislative Research Commission all actions taken on~~] personal service contracts ***and memoranda of agreement submitted*** by the secretary of the Finance and Administration Cabinet ***or his designee***[~~and the subcommittee~~].

Section 6. KRS 45A.725 is amended to read as follows:

(1) The ***Government Contract Review Committee with approval of the*** Legislative Research Commission ***may establish policies and procedures concerning***[~~shall review and comment on~~] the manner and form ***of notification and***[~~in which~~] the documentation to accompany the proposed personal service contract ***or memorandum of agreement***[~~shall be presented~~].

(2) Nothing in this code shall prohibit the committee from accepting personal service contracts or memoranda of agreement through the use of electronic instrumentalities.

Section 7. KRS 45A.830 is amended to read as follows:

(1) After the procuring officer has negotiated an architectural or engineering services contract for the Finance and Administration Cabinet or an engineering or related services contract for the Transportation Cabinet, but before the contract is submitted to the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~], the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, ***that***[~~which~~] shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances ***that***[~~which~~] may constitute a violation of this chapter ***occurring***[~~which has arisen~~] in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) The procuring agency shall ***maintain the following information, readily available to the Government***[~~file with the Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]:

(a) The certificates;

(b) The selection committee's ranking of firms; and

(c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 8. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and

policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

The Committee Substitute to **SB 252** is as follows:

AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:[~~The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.~~]

(1) "Business" ***means***[~~shall mean~~] any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted***;***[~~.~~]

(2) "Change order" ***means***[~~shall mean~~] a written order signed by the purchasing officer, directing the contractor to make changes ***that***[~~which~~] the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor***;***[~~.~~]

(3) "Chief purchasing officer" ***means***[~~shall mean~~] the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177, and 180***;***[~~.~~]

(4) "Construction" ***means***[~~shall mean~~] the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property***;***[~~.~~]

(5) "Contract" ***means***[~~shall mean~~] all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It ***includes***[~~shall include~~] awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It[~~ also~~] includes supplemental agreements with respect to any of the foregoing***;***[~~.~~]

(6) "Contract modification" ***means***[~~shall mean~~] any written alteration in the specifications, delivery point, rate of delivery,

contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It ***includes***[~~shall include~~] bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option***;***[~~.~~]

(7) "Contractor" ***means***[~~shall mean~~] any person having a contract with a governmental body***;***[~~.~~]

(8) "Data" ***means***[~~shall mean~~] recorded information, regardless of form or characteristic***;***[~~.~~]

(9) "Designee" ***means***[~~shall mean~~] a duly authorized representative of a person holding a superior position***;***[~~.~~]

(10) "Employee" ***means***[~~shall mean~~] an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body***;***[~~.~~]

(11) "Governmental body" ***means***[~~shall mean~~] any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of[~~ the executive or legislative branch of the~~] state government***;***[~~.~~]

(12)[~~ "May" shall mean permissive.~~

~~(13)~~] "Negotiation" ***means***[~~shall mean~~] contracting by either the method set forth in KRS 45A.085, 45A.090***,*** or 45A.095***;***[~~.~~]

(13)[~~(14)~~] "Person" ***means***[~~shall mean~~] any business, individual, organization***,*** or group of individuals***;***[~~.~~]

(14)[~~(15)~~] "Procurement" ***means***[~~shall mean~~] the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It ***includes***[~~shall also include~~] all functions that pertain to the ***procurement***[~~obtaining~~] of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration***;***[~~.~~]

(15)[~~(16)~~] "Purchase request" or "purchase requisition" ***means***[~~shall mean~~] that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025***;***[~~.~~]

(16)[~~(17)~~] "Purchasing agency" ***means***[~~shall mean~~] any governmental body ***that***[~~which~~] is authorized by this code or its implementing ***administrative*** regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer***;***[~~.~~]

(17)[~~(18)~~] "Purchasing officer" ***means***[~~shall mean~~] any person authorized by a governmental body in accordance with procedures prescribed by ***administrative*** regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term ***includes***[~~shall also include~~] an authorized representative acting within the limits of authority***;***[~~.~~]

(18)[~~(19)~~] "Services" ***means***[~~shall mean~~] the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports ***that***[~~which~~] are merely incidental to the required performance of services***;***[~~.~~]

(19)[~~(20) "Shall" shall mean imperative.~~

~~(21)~~] "Supplemental agreement" ***means***[~~shall mean~~] any contract modification ***that***[~~which~~] is accomplished by the mutual action of the parties***;***[~~.~~]

(20)[~~(22)~~] "Supplies" ***means***[~~shall mean~~] all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land***; and***[~~.~~]

(21)[~~(23)~~] "Using agency" ***means***[~~shall mean~~] any governmental body of the state ***that***[~~which~~] utilizes any supplies, services, or construction purchased under this code.

Section 2. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) ***"Committee" means the Government Contract Review Committee of the Legislative Research Commission;***

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c)[~~(b)~~]"Governmental emergency" means an unforeseen event or set of circumstances ***that***[~~which~~] creates an emergency condition as ***determined by the committee by promulgation of an administrative regulation***[~~defined in KRS 45A.095(3)~~];

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local

boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations, and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Human Resources, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.060-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs; or

11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one contract;

[~~(c) "Subcommittee" means the Personal Service Contract Review Subcommittee of the Legislative Research Commission;~~] and

(f)[~~(d)~~] "Personal service contract" means an agreement whereby an individual, firm, partnership***,*** or corporation is to perform certain ***services requiring professional skill or professional judgment***[~~duties, professional or otherwise,~~] for a specified period of time ***at***[~~for~~] a price agreed upon***. It includes all price contracts for personal services between a governmental body or political subdivision of the Commonwealth and any other entity in any amount***[~~which is exempt from competitive bidding pursuant to KRS 45A.095~~]. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, ***providers of direct*** Medicaid ***health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Human Resources***[~~providers~~], individuals performing homemaker services, and transit authorities;

3.[~~ Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision;~~

~~4.~~] Agreements between state universities ***or colleges*** and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;[~~ and~~]

4.[~~5.~~] Agreements between a state agency and rural concentrated employment programs***;***[~~.~~]

5.[~~6.~~] Agreements between the State Fair Board and judges, officials***,*** and entertainers contracted for events promoted by the State Fair Board***; or***

6. Any other contract that the committee deems inappropriate for consideration;[~~.~~]

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract ***or memorandum of agreement*** valid.

Section 3. KRS 45A.695 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** no one shall begin work on a personal service contract ***entered***

into[~~made~~] by any contracting body,[~~ except as provided in subsection (8) of this section,~~] until ***notification***[~~after a copy~~] of the personal service contract is filed with the ***committee***[~~Legislative Research Commission~~]. Each ***personal*** service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each[~~ copy of a proposed~~] personal service contract ***and memorandum of agreement shall be filed with the committee prior to the effective date and***[~~submitted to the Legislative Research Commission~~] shall be accompanied by ***a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document***[~~documentation of~~]:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;[~~ and~~]

(c) ***The total projected cost of the contract or agreement and source of funding;***

(d) The total projected duration of the contract;

(e) Payment information, in detail;

(f) In the case of memoranda of agreement or similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate[~~In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3)~~].

(3) Adequate notice of the need for ***a personal service contract***[~~the services~~] shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or ***his***[~~a~~] designee[~~ of the officer~~] may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or ***his***[~~a~~] designee[~~ of the officer~~], to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The ***committee***[~~Legislative Research Commission~~] shall ***maintain a record or have readily accessible records of the date on which***[~~cause to be endorsed on the copies of~~] each personal service contract ***and memorandum of agreement was received***[~~submitted the time and date of the filing~~] and shall maintain ***or have access to electronic or paper files on all***[~~a file of~~] personal service contracts ***and memoranda of agreement***[~~for public inspection, with suitable indexes~~]. ***Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.***

(7) Payment on ***personal service*** contracts ***and memoranda of agreement*** submitted to the ***committee for approval***[~~subcommittee~~] shall not be made ***for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority***[~~before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary~~].

(8) In the event of a governmental emergency ***as defined under Section 2 of this Act***, work may begin prior to filing ***notification***[~~a copy~~] of the personal service contract with the ***committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and***[~~Legislative Research Commission providing that~~] the normal process will not accommodate the ***governmental*** emergency. ***Payment shall not be made***

until written notification and explanation of the reasons for this action are forwarded to the committee.

(9) If ***a governmental***[~~an~~] emergency exists ***as defined under Section 2 of this Act*** and work is authorized to begin ***on a personal service contact*** immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet ***or his designee***, setting forth in detail the nature of the emergency shall be filed with the ***committee, along with a*** copy of the personal service contract.

Section 4. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts ***in aggregate amounts of ten***[~~on which the estimated cost does not exceed one~~] thousand dollars ***($10,000)***[~~($1,000)~~] ***or less during any one fiscal year*** shall be exempt from ***routine*** review by the ***committee and***[~~subcommittee. Personal service contracts of one thousand dollars ($1,000) or less~~] shall be filed with the ***committee not more than thirty (30) days after***[~~subcommittee prior to~~] their effective date[~~ pursuant to KRS 45A.695~~] for informational purposes ***only. The committee shall examine all personal service contracts in aggregate amounts of ten thousand dollars ($10,000) or less submitted more than thirty (30) days after the effective date***. The ***committee may***[~~subcommittee shall~~] periodically examine the informational copies of personal service contracts ***in aggregate amounts*** of ***ten***[~~less than one~~] thousand dollars ***($10,000)***[~~($1,000)~~] ***or less***[~~and payment of less than one thousand dollars ($1,000) for personal services~~] and may request agency participation in discussions relative to their contracts or payments. ***The provisions of this subsection shall not apply to price contracts for personal services.***

(2) ***Memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less during any one (1) fiscal year shall be exempt from routine review by the committee and shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.***

(3) [~~All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. ~~]If a personal service contract of less than ***ten***[~~one~~] thousand dollars ***($10,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***ten***[~~one~~] thousand dollars ***($10,000)***[~~($1,000)~~] per ***fiscal***[~~calendar~~] year ***per contractor***, the amended contract shall be placed on the agenda for the ***committee's routine***[~~subcommittee's~~] review. ***The provisions of this subsection shall not apply to price contracts for personal services.***

(4) If a memorandum of agreement or price contract for personal services of less than fifty thousand dollars ($50,000) is amended to the extent the amended total of the agreement or contract exceeds fifty thousand dollars ($50,000) per fiscal year per governmental body, the amended agreement or contract shall be placed on the agenda for the committee's routine review.

Section 5. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent ***committee***[~~subcommittee~~] of the Legislative Research Commission to be known as the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]. The ***committee***[~~subcommittee~~] shall be composed of seven (7) members ***that***[~~which~~] shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the ***committee***[~~subcommittee~~] from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as ***chairperson***[~~chairman~~]. Any vacancy ***that***[~~which~~] may occur in the membership of the ***committee***[~~subcommittee~~] shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The ***committee***[~~subcommittee~~] shall meet monthly at ***the***[~~such~~] time and place as the ***chairperson***[~~chairman~~] may determine. ***A quorum shall require at least four (4) members present and the vote shall be by majority.*** The members of the ***committee***[~~subcommittee~~] shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the ***committee***[~~subcommittee~~] shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts ***and memoranda of agreement*** received by the Legislative Research Commission shall be submitted to the ***committee***[~~subcommittee~~] to:

(a) Examine the stated need for the[~~ contract~~] service;

(b) Examine whether the service could or should be performed by state personnel;[~~ and~~]

(c) Examine the ***amount***[~~cost~~] and duration of the contract ***or agreement; and***

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the ***committee determines***[~~subcommittee believes~~] that the contract service ***or agreement***, other than an emergency contract approved by the ***secretary of the Finance and Administration Cabinet or his designee***[~~Governor~~], is not needed ***or inappropriate***, the service could ***or***[~~and~~] should be performed by state personnel, the ***amount or duration***[~~cost~~] is excessive, or the ***exchange of resources or responsibilities are inappropriate***[~~duration is excessive~~], the ***committee***[~~subcommittee~~] shall attach a written notation of the reasons for its disapproval or objection to the personal service contract ***or memorandum of agreement*** and shall return the personal service contract ***or memorandum of agreement*** to the secretary of the Finance and Administration Cabinet ***or his designee***.[~~ The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission.~~] The ***committee***[~~subcommittee~~] shall act on a personal service contract ***or memorandum of agreement*** submitted to the Legislative Research Commission within forty-five (45) days of the ***date received***[~~submission of the personal service contract~~].

(6)[~~(5)~~] Upon receipt of the ***committee's***[~~subcommittee's~~] disapproval or objection to a personal service contract ***or memorandum of agreement***, the secretary of the Finance and Administration Cabinet ***or his designee*** shall determine whether ***the***[~~a~~] personal service contract ***or memorandum of agreement shall***:

(a) [~~Shall~~]Be revised to comply with the objections of the ***committee***[~~subcommittee~~];

(b) [~~Shall~~]Be ***canceled and, if applicable, payment allowed for services rendered under the contract or amendment***[~~cancelled if disapproved by the subcommittee~~]; or

(c) [~~Shall~~]Remain effective as originally approved[~~ by the Finance and Administration Cabinet~~].

(7)[~~(6)~~] The secretary of the Finance and Administration Cabinet ***or his designee*** shall notify the ***committee***[~~subcommittee~~] of the action taken on personal service contracts ***and memoranda of agreement disapproved or objected to***[~~ referred to the Finance and Administration Cabinet by the subcommittee~~] within ***ten (10)***[~~thirty (30)~~] days from the date the ***personal service*** contracts ***or memoranda of agreement*** were reviewed by the ***committee***[~~subcommittee~~].

(8)[~~(7)~~] ***Contracting bodies***[~~The subcommittee~~] shall ***make annual reports*** [~~report monthly~~] to the ***committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to***[~~Legislative Research Commission all actions taken on~~] personal service contracts ***and memoranda of agreement submitted*** by the secretary of the Finance and Administration Cabinet ***or his designee***[~~and the subcommittee~~].

Section 6. KRS 45A.725 is amended to read as follows:

(1) The ***Government Contract Review Committee may establish policies and procedures concerning***[~~Legislative Research Commission shall review and comment on~~] the manner and form ***of notification and***[~~in which~~] the documentation to accompany the proposed personal service contract ***or memorandum of agreement***[~~shall be presented~~].

(2) Nothing in this code shall prohibit the committee from accepting personal service contracts or memoranda of agreement through the use of electronic instrumentalities.

Section 7. KRS 45A.830 is amended to read as follows:

(1) After the procuring officer has negotiated an architectural or engineering services contract for the Finance and Administration Cabinet or an engineering or related services contract for the Transportation Cabinet, but before the contract is submitted to the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~], the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, ***that***[~~which~~] shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances ***that***[~~which~~] may constitute a violation of this chapter ***occurring***[~~which has arisen~~] in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) The procuring agency shall ***maintain the following information, readily available to the Government***[~~file with the Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]:

(a) The certificates;

(b) The selection committee's ranking of firms; and

(c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 8. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and

policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 9. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by the 1998 Regular Session of the Kentucky General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (1)(d)6. and subsection (1)(f)2. of Section 2 of this Act shall be codified as the "Cabinet for Health Services."

SB 361, AN ACT relating to access to information technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

- ***(a) The advent of the information age throughout the United States and around the world has resulted in lasting changes in information technology; and***
- ***(b) Use of interactive video display terminals by state and state-assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but nonvisual access, whether by speech, Braille, or other appropriate means, has been overlooked in purchasing and deploying the latest information technology; and***
- ***(c) Presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life, such as education and employment; and***
- ***(d) Alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and use of information presented is possible by both visual and nonvisual means; and***
- ***(e) The goals of the Commonwealth in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with particular needs, including individuals unable to use visual displays, will not be left out of the information age.***

(2) All programs and activities that are supported in whole or in part by public funds shall be conducted in accordance

with the following principles:

(a) Individuals who are blind or visually impaired shall have the right to full participation in the life of the Commonwealth, including the use of advanced technology that is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public; and

(b) Technology purchased in whole or part with funds provided by the Commonwealth to be used to create, store, retrieve, or disseminate information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals who are blind or visually impaired.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology;

(2) "Blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees; or

(b) Has a medically indicated expectation of visual deterioration; or

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(3) "Covered entity" means the state or any state-assisted organization;

(4) "Information technology" means all electronic information processing hardware and software, including but not limited to telecommunications;

(5) "Nonvisual" means output methods not requiring sight, including but not limited to synthesized speech and Braille;

(6) "State" means the Commonwealth of Kentucky or any of its departments, agencies, public bodies, or other instrumentalities;

(7) "State-assisted organization" means a college, university, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds; and

(8) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The head of each covered entity shall insure that information technology equipment and software used by the entity's employees, program participants, and the general public:

(1) Provide blind or visually impaired individuals with access, including but not limited to interactive use of equipment and services, that is equivalent to the access provided individuals who are not blind or visually impaired;

(2) Are designed to present information, including but not limited to prompts used for interactive communication, in formats intended for both visual and nonvisual use; and

(3) Have been purchased under a contract that includes the technology access clause required by Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall develop a technology access clause and shall establish nonvisual access standards for use in the procurement of information technology by covered entities in accordance with the following requirements:

(1) The technology access clause shall require compliance with the nonvisible access standards established under this section. Except as otherwise provided in Section 5 of this Act, the technology access clause shall be included in all contracts entered into after the effective date of this Act for the procurement of information technology by, or for the use of, covered entities.

(2) The nonvisual access standards shall include the specifications necessary to meet the requirements of Section 3 of this Act. The standards shall include the following minimum specifications:

(a) Effective, interactive control and use of technology, including the operating system, applications programs, and format of the data presented shall be readily achievable by nonvisual means;

(b) The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

(c) Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and

(d) The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of effectively phasing in nonvisual access technology procurement, the head of any covered entity may, with respect to nonvisual access software or peripheral devices obtained during the three (3) years immediately following the effective date of this Act, approve the exclusion of the technology access clause if the cost of the software or peripheral devices for the covered entity exceeds:

(a) Fifty thousand dollars ($50,000) during the first year;

(b) One hundred thousand dollars ($100,000) during the second year; and

(c) Two hundred fifty thousand dollars ($250,000) during the third year.

(2) The head of any covered entity shall not approve the exclusion of the technology access clause from any contract with respect to:

(a) The compatibility of standard operating systems and software with nonvisual access software and peripheral devices; or

(b) The initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(3) Nothing in this section shall require the installation of software or peripheral devices for nonvisual access if the information technology is being used by individuals who are not blind or visually impaired; however, the applications programs and underlying operating system, including the format of the data, used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Information technology purchased prior to the effective date of this Act shall be brought into compliance with this Act when the covered entity upgrades or replaces the existing equipment or software.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any person injured by a violation of Sections 1 to 5 of this Act may bring an action for injunctive relief in the Circuit Court of the county in which the person resides or in which the covered entity is located. An action for injunctive relief shall be commenced within four (4) years after the cause of action accrues. A cause of action for a continuing violation of Sections 1 to 5 of this Act shall accrue at the time of the latest occurrence of the violation.

SB 438, AN ACT relating to block grants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.353 is amended to read as follows:

(1) The Commission shall refer each block grant application received to the designated review body for review and consideration.

(2) The designated review body shall review and consider each block grant application according to the following standards and criteria, and shall make an affirmative finding of fact that:

(a) Except as provided in paragraph (b) of this subsection, block grant and other funds specified in the application have been included in an appropriation provision or any branch budget bill enacted by the General Assembly in anticipation of such application;

(b) Any excess in the total amount of block grant funds sought over the total amount of such funds anticipated and included in an appropriation provision or any branch budget bill, has been included in a surplus expenditure plan approved by the General Assembly;

(c) A budget reduction plan specifying programs and services to be eliminated or to be reduced in scope if federal funding diminishes or is cut, has been included;

(d) The budget reduction plan does not propose to increase the ratio of state funds to federal funds if federal funding diminishes, or is cut;

(e) Block grant and other funds to be provided under the application are fairly and equitably distributed among those programs, services, or recipients eligible for block grant funding;

(f) Block grant and other funds to be provided under the application are not to be used to fund programs or services that would duplicate or supplant existing programs or services funded by the private sector;

(g) The intended uses of block grant and other funds specified in the application are in compliance with the applicable federal and state laws pertaining to such block grant funds; and

(h) The amount of block grant and other funds to be retained by the state administering agency for administrative purposes does not exceed an amount allowable under federal law.

(3) For the purpose of the review and consideration of a block grant application, the findings of fact and any other reports or recommendations of the designated review body need only be approved by a majority of the members present at the public hearing held according to KRS 45.352.

SB 390, AN ACT relating to state contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.190 is amended to read as follows:

(1) *As used in this section, "agency contract administrator" means the state agency employee responsible for the administration of a contract.*

(2) When a construction contract is awarded in an amount in excess of twenty-five thousand dollars ($25,000), the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(3)[~~(2)~~] *When any contract in an amount in excess of twenty-five thousand dollars ($25,000) for commodities, supplies, equipment, or services of any kind, or when a contract for construction services costing twenty-five thousand dollars ($25,000) or less is proposed for presentation to vendors or contractors, the agency contract administrator shall evaluate whether a performance bond should be required in the procurement document, and make his recommendation to the purchasing agency. The agency contract administrator shall note the reason that a performance bond is or is not recommended and his notation shall be a part of the permanent record relating to the contract. If a performance bond is required, the requirement shall be included in the invitation to bid, request for proposal, or other procurement document. The agency contract administrator shall make audits of the performance of contracts upon completion of one-third (1/3) of the contract and upon completion of two-thirds (2/3) of the contract. For contracts taking longer than one (1) year to complete, audits of performance shall be conducted at least annually. Before a vendor is released from a performance bond, the agency contract administrator shall review the audits of performance, make a final performance review, and promptly determine whether, in his or her opinion, the vendor has fully complied with the terms of the contract. The opinion of the agency contract administrator shall be made in writing or electronically, set forth the reasons for his or her opinion regarding compliance or noncompliance, and be signed by the agency contract administrator. This opinion may have an electronic signature. The using agency head shall, after consideration of the performance audits, the final performance review, and the opinion of the agency contract administrator regarding compliance or noncompliance, determine whether to recommend to the purchasing agency that the performance bond be released or whether a claim should be made against the performance bond. This determination of the using agency head shall be in writing, signed by the using agency head, and forwarded to the purchasing agency. This determination may have an electronic signature and be transmitted electronically. If the recommendation of the using agency is not followed by the purchasing agency, the purchasing agency shall place a statement in the file explaining why it is not followed.*

(4) Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection *(2) or (3)*[~~(1)~~] of this section.

The Committee on Licensing and Occupations reported **SB 357** and **SB 392** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 357, AN ACT relating to wineries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of that permitted under KRS Chapter 242 and capable of being consumed by a human being. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products if they are unfit for use for beverage purposes:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions; and

(d) Flavoring extracts and syrups.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes any part of any building in which the premises are contained, and any part of any other building connected with the building by direct access or by a common entrance.

(8) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)), or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(9) "City administrator" means city alcoholic beverage control administrator.

(10) "Commissioner" means the commissioner of alcoholic beverage control.

(11) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(12) "County administrator" means county alcoholic beverage control administrator.

(13) "Department" means the Department of Alcoholic Beverage Control.

(14) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine.

(15) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state, and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(16) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(17) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(18) "Dry territory" means a county, city, district or precinct in which a majority of voters have voted in favor of prohibition, as prohibition is defined in KRS 242.010.

(19) "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(20)[~~(19)~~] "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(21)[~~(20)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(22)[~~(21)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(23)[~~(22)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under KRS Chapter 242.

(24)[~~(23)~~] "Manufacture" means distill, rectify, brew, bottle and operate a winery.

(25)[~~(24)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer and any other person engaged in the production or bottling of alcoholic beverages.

(26)[~~(25)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. It shall not include as a single unit two (2) separate businesses or enterprises of one (1) owner on the same lot or tract of land, in the same or in different buildings.

(27)[~~(26)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(28)[~~(27)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(29)[~~(28)~~] "Retail sale" means any sale where delivery is made in Kentucky to any person not holding a license.

(30)[~~(29)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(31)[~~(30)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(32)[~~(31)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(33)[~~(32)~~] "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(34)[~~(33)~~] "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit or both, as the context requires.

(35)[~~(34)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(36)[~~(35)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(37)[~~(36)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(38)[~~(37)~~] "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required, except a distiller, rectifier, brewer, or vintner.

(39)[~~(38)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume.

(40)[~~(39)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse or storeroom located within this state.

Section 2. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the Revenue Cabinet.

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the Revenue Cabinet. In order to so qualify, each wholesaler shall furnish to the Revenue Cabinet a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the Revenue Cabinet in such manner as the cabinet may require.

(4) The cabinet shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the cabinet and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the Revenue Cabinet of all malt beverage taxes due, with penalties and interest.

SB 392, AN ACT relating to title pledge loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 19 of this Act, unless the context requires otherwise:

(1) "Capital" means the assets of a business entity less the liabilities of that business entity. Assets and liabilities shall be measured according to generally accepted accounting principles or relevant pronouncements of the financial accounting standards board;

(2) "Department" means the Department of Financial Institutions;

(3) "Person" means any sole proprietorship, general partnership, corporation, limited liability company, or limited liability partnership duly qualified to do business in Kentucky;

(4) "Pledgor" means any individual who executes a title pledge agreement as defined in subsection (5) of this section;

(5) "Title pledge agreement" means a thirty (30) day written agreement whereby a title pledge lender agrees to make a loan of money to a pledgor, and the pledgor agrees to give the title pledge lender a security interest in unencumbered titled personal property owned by the pledgor, subject to the terms and conditions of Sections 1 to 19 of this Act. A pledgor shall have no personal liability on a title pledge agreement and a title pledge agreement shall not be considered a debt transaction for any purpose of law;

(6) "Title pledge lender" means any person engaged in the business of making title pledge agreements;

(7) "Title pledge office" means the location at which, or premises in which, a title pledge lender regularly conducts business; and

(8) "Titled personal property" means any personal property the ownership of which is evidenced and delineated by a state issued certificate of title but shall not include mobile homes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) A title pledge lender licensed under Sections 1 to 19 of this Act may make loans of money on pledges of titled personal property in accordance with the provisions of Sections 1 to 19 of this Act.

(2) Title pledge lenders exercising the authority set forth in Sections 1 to 19 of this Act shall not be deemed in violation of KRS Chapter 360. No action shall be brought by a pledgor against a title pledge lender in connection with the title pledge agreement more than five (5) years after the date of the alleged occurrence of any violation of Sections 1 to 19 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

No person shall engage in the business of a title pledge lender without having first obtained a license. Any person engaged in the business of title pledge lending on the effective date of this Act may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license, if the application is filed within sixty (60) days after the effective date of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

To qualify for a license, an applicant shall apply to the department and satisfy the following requirements:

(1) Be operating as a sole proprietorship, general partnership, limited liability partnership, corporation, or limited liability company duly qualified to do business in Kentucky;

(2) Demonstrate the existence of initial capital of and the maintenance of, at least one hundred thousand dollars ($100,000) for the security of all of the applicant's licensed title pledge offices within the Commonwealth;

(3) Demonstrate the existence of a bond, with approved surety, in the amount of one hundred thousand dollars ($100,000) for the security of all of the applicant's licensed title pledge offices within the Commonwealth. This bond shall be maintained for the benefit and security of the title pledge borrowers and for the benefit and security of the Commonwealth with respect to the civil and criminal penalties provided in Section 19 of this Act; and

(4) Represent that the business will be operated lawfully, fairly, and ethically in accordance with Sections 1 to 19 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each application for a title pledge lending license shall be filed with the department and the application shall provide the following:

(1) The name of the beneficial owner if a sole proprietorship; or in the case of a corporation, all individuals serving as officers or directors; or in the case of a partnership or limited liability company, the members thereof;

(2) The street address where the title pledge office is to be operated;

(3) Proof of the capital and surety bond requirements set forth in Section 4 of this Act, accompanied by an unaudited financial statement from a certified public accountant;

(4) An affidavit from each individual set forth in subsection (1) of this section stating that each individual has not been convicted of a felony within the ten (10) year period preceding the date of application;

(5) Certified funds in the amount of five hundred dollars ($500) payable to the department; and

(6) Other information as required by the commissioner.

SECTION 6. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Following verification by the department of the information contained in the application, every person having satisfied the provisions of Sections 1 to 19 of this Act and having paid the business taxes and any other taxes required by law shall be granted a license as set forth in this section. The license issued under this section shall state the name of the person to whom issued, the place of business, and street address where the title pledge office is located. The license shall entitle the person to do business at the place designated on the license. The license shall not be transferable from one (1) person to another but, upon approval of the commissioner, may be transferred from one (1) location to another within the county of the location originally licensed.

(2) A title pledge lender license shall be renewed each year upon payment of an annual fee of five hundred dollars ($500) and compliance with the provisions of Sections 1 to 19 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Every title pledge lender doing business under the laws of this Commonwealth shall be subject to inspection by the commissioner or by an examiner appointed by the commissioner in accordance with KRS 287.440. Examination shall be made of every title pledge lender at least once and not more than twice every twenty-four (24) months unless it appears from examination or from the report of the title pledge lender that it has failed to comply with laws or administrative regulations relating to title pledge lenders or has engaged in unsafe or unsound practices.

(2) The commissioner, deputy commissioner, and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the title pledge lender,

or the lender's designee.

SECTION 8. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

In undertaking the examination of any title pledge lender, neither the Commonwealth, the commissioner, nor any examiner employed by the Commonwealth shall become liable to any pledgor of the title pledge lender if the examination or an omission in the examination fails to fully and effectively disclose the financial condition of the title pledge lender.

SECTION 9. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Reports of examination, and correspondence that relates to the report of examination, of a title pledge lender shall be considered confidential information. No officer or director of a title pledge lender or employee of the department shall release any information contained in the examination, except if:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality have been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the title pledge lender, or to outside persons for the purpose of evaluating the title pledge lender for possible acquisition. Reports of examination released to outside persons providing professional services to the title pledge lender or for the purpose of evaluating the title pledge lender for possible acquisition, shall require a written request from the outside person and prior approval by the board of directors or an executive committee of the title pledge lender.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(3) Every official report concerning a title pledge lender, and every report of examination, shall be prima facie evidence of the facts stated therein for all purposes in any action in which the department or title pledge lender is a party.

SECTION 10. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

A fee shall be collected by the department for any examination as set forth in Section 7 of this Act. The fee shall be sufficient to cover the cost of the examination based upon fair compensation for time and actual expense.

SECTION 11. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Every title pledge lender shall keep a consecutively numbered record of every title pledge agreement executed. A copy of the title pledge agreement shall be maintained for a period of two (2) years from the date the title pledge agreement was executed, and shall include the following:

(a) A clear and accurate description of the titled personal property, including its vehicle identification number, license plate number, year, make, model, type, and color;

(b) The date of the title pledge agreement;

(c) The amount of the loan made in accordance with the title pledge agreement;

(d) The date of maturity of the loan; and

(e) The name, date of birth, social security number, and residence address of the pledgor, together with a photocopy of the pledgor's motor vehicle operator's license.

(2) The pledgor shall sign the title pledge agreement, and shall be provided with a copy of the agreement. The title pledge agreement shall also be signed by the title pledge lender or the lender's employee or agent.

(3) This information shall be maintained at the title pledge office location, approved by the department, and made available for inspection by the law enforcement agencies where the title pledge lender is located during the regular business hours of the title pledge office.

SECTION 12. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

The title pledge lender may record the lender's security interest in titled personal property by noting liens on the certificate of title for all title pledge transactions. The title pledge lender may require the pledgor to execute a power of attorney at the time of the signing of the title pledge agreement permitting the title pledge lender to record the lien and effect a transfer of the certificate of title upon default.

SECTION 13. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) A title pledge lender shall be subject to the same fees, default, and deferment charges as provided in KRS 288.530.

(2) Notwithstanding the provisions of Section 2 of this Act, or any law to the contrary, each title pledge lender shall issue to the pledgor a standardized consumer interest and fee notification and disclosure form in compliance with the Federal Truth in Lending Act, 15 U.S.C. sec. 1601 et seq., prior to entering into any title pledge agreement, if the pledged goods will consist of, or include, one (1) or more motor vehicles or water craft titled by this Commonwealth or any other state.

(3) By agreement of the parties, the maturity date of the title pledge transaction may be renewed for additional thirty (30) day periods, however, the title pledge transaction shall not be renewed, rolled over, or otherwise consolidated more than three (3) times in succession. Each roll over period shall not be for less than thirty (30) days. All renewals of the title pledge transaction shall be evidenced in writing. No accrued interest or service charge shall be capitalized or added to the original principal of the title pledge transaction during any renewal.

SECTION 14. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 1 to 19 of this Act, the pledgor, upon presentation of suitable identification shall be entitled to a release of the security interest and lien, if any are noted on the titled personal property or certificate of title described therein, upon satisfaction of all outstanding obligations in accordance with the title pledge agreement and Sections 1 to 19 of this Act. In addition, the power of attorney executed under Section 12 of this Act, if any, shall be stamped "void".

SECTION 15. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

The pledgor shall have no obligation to redeem the titled personal property, or to make any payment toward the title pledge agreement. If, however, upon the expiration of the title pledge agreement, or the final renewal, if any, the pledgor fails to pay all of the principal, interest, and fees owing to the title pledge lender, the title pledge lender may take possession of the titled personal property. In taking possession, the title pledge lender, or his agent, may proceed without judicial process if this can be done without breach of the peace, or may proceed by filing a civil action.

SECTION 16. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

After the title pledge lender has taken possession of the titled personal property in accordance with Section 15 of this Act, it shall hold the property for a period of not less than twenty (20) days prior to disposal. Interest and fees, other than storage fees under Section 13 of this Act, shall cease to accrue following repossession. During this holding period, the pledgor shall have the sole right to redeem the titled personal property by paying all principal, interest, and fees owing to the title pledge lender, including all repossession and storage fees in Section 13 of this Act. Following the expiration of the twenty (20) day period, the title pledge lender shall have a period of sixty (60) days in which to sell, in a commercially reasonable manner, the titled personal property. Notice of the proposed sale shall be given to the pledgor. Notice of the proposed sale shall also be given to any other secured party from whom the title pledge lender has received written notice prior to the notification sent to the pledgor, of a claim of interest in the titled personal property. The proceeds of the commercially reasonable sale shall be applied to the principal, interest, and all fees set forth in Section 13 of this Act owed by the pledgor to the title pledge lender. Any surplus amounts shall be remitted to the pledgor. There shall be no further interest charged to the pledgor from the commencement of the sixty (60) day period.

SECTION 17. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

If the pledgor fails to complete the obligations under the title pledge agreement by failing to pay all outstanding principal, interest, and fees during the twenty (20) day holding period, then the pledgor shall forfeit all right, title, and interest in and to the titled personal property and certificate of title to the title pledge lender, who shall thereby acquire by virtue of the terms of the title pledge agreement and power of attorney, an absolute right of title and ownership to the titled personal property subject to the obligation to sell the titled personal property in the manner described in Section 16 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

A title pledge lender shall not:

(1) Accept a pledge from a person under eighteen (18) years of age, from anyone who appears to be intoxicated, or from any person known to the title pledge lender to have been convicted of larceny, burglary, or robbery;

(2) Make any agreement giving the title pledge lender any recourse against the pledgor other than the title pledge lender's right to take possession of the titled personal property and certificate of title upon the pledgor's default, and to sell the titled personal property;

(3) Accept any waiver, in writing or otherwise, or any right or protection accorded a pledgor under Sections 1 to 19 of this Act;

(4) Fail to exercise reasonable care to protect from loss or damage titled personal property or certificates of title in the physical possession of the title pledge lender;

(5) Purchase pledged titled personal property in the operation of its business;

(6) Maintain more than one (1) title pledge office per license;

(7) Violate the provisions of Section 13 of this Act or any administration regulation promulgated by the department;

(8) Operate a title pledge office on the same premises as a pawnbroker as defined in KRS 226; or

(9) Lend moneys in excess of four thousand dollars ($4,000) to any one (1) title pledge borrower at a given time.

SECTION 19. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Every person who knowingly violates any of the provisions of Section 1 to 19 of this Act, is guilty of a Class A misdemeanor. Upon conviction of such a Class A misdemeanor the license of the title pledge lender may be suspended or revoked by the department.

(2) Notwithstanding any other law to the contrary, apart from or in addition to any sanctions which may be imposed under subsection (1) of this section, upon an administrative finding by the department that a title pledge lender has violated the provisions of subsection (3) of Section 13 of this Act, the license of the title pledge lender may be revoked or suspended for a period, specified by the department, not to exceed forty-five (45) days. Notwithstanding the provisions of Section 2 of this Act, or any other law to the contrary, upon a finding by the department that a title pledge lender has repeatedly and persistently engaged in a pattern of violating the provisions of subsection (3) of Section 13 of this Act, the license of the title pledge lender may be revoked or suspended for a period specified by the department, of not less than ninety (90) days.

(3) In addition to the sanctions which may be imposed under subsection (2) of this section, the department may impose a fine against any person for a violation of Sections 1 to 19 of this Act of no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000) per violation.

(4) During the period of any suspension or following any revocation, the title pledge lender shall not engage, in any county within this Commonwealth, in the business of making title pledge agreements with pledgors.

The Committee on Natural Resources and Environment reported **HR 133, SB 311, SB 313, SB 318,** and **SB 364** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 133, A RESOLUTION encouraging cost-free opening of landfills.

WHEREAS, the improper disposal of solid waste increasingly threatens the health, welfare, and quality of life of all Kentuckians; and

WHEREAS, in many of the impoverished areas of the state, the tipping fees and other costs related to the use of county landfills for solid waste disposal are a disincentive for low income individuals to use landfill facilities and they instead turn to illegal dumping; and

WHEREAS, illegal dumping not only threatens the natural beauty of our state but also threatens our ground water quality and poses a serious health hazard to our citizens; and

WHEREAS, the role of government should always be to protect the health and welfare of our citizens; and

WHEREAS, county governments have been given the responsibility to create a solid waste management plan for each county and to designate administration and operation of county landfills;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. County governments across the Commonwealth are urged to give consideration to the establishment of county programs or policies which would result in the regular opening of county landfills for private citizens to dispose of household waste at no charge.

Section 2. County governments are encouraged to educate their citizens as to the health and environmental risks associated with illegal dumping and to increase their efforts against illegal dumping within their jurisdictions.

Section 3. The Clerk of the House is directed to send copies of this resolution to all county judge/executives throughout the Commonwealth for dissemination to members of the fiscal court in each county.

SB 311, AN ACT relating to mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.145 is amended to read as follows:

(1) No employee of a surface coal mining operation shall be assigned, allowed, or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

(2) At stockpiles with underground feeders or draw-off tunnels, the licensee shall install and maintain a visible warning device that shall be activated when the feeders are in operation.

(3) The operator's cab of all equipment being operated on or in the immediate area of a stockpile with underground feeders or draw-off tunnels shall be enclosed by a compartment and shall be furnished with a self-contained self-rescuer that is capable of providing oxygen for a period of not less than one (1) hour.

(4) On all haulage roadways, berms, guardrails, concrete barriers, or other suitable devices shall be installed in such a

manner that they extend to at least the mid-wheel height of the highest vehicle or equipment that regularly travels that type of roadway.

SB 313, AN ACT related to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine inspectors to insure at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the state and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of those underground coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.

(2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in this state. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in this state. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. Persons desiring to use their mining engineering or technology degree for practical experience credit shall file[~~a certified transcript of their grades and~~] proof of having received their degree prior to examination.

(3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. Persons appointed as mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for ***the positions of*** mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

(8) Persons, other than those employed by a company, who by contractual or other rights, perform mine inspection work in any capacity, shall be familiar with mining and possess experience equal to that required of a state mine inspector. They shall also be held responsible for their conduct in the performance of their inspections and related acts. This subsection shall not apply to persons excluded by other laws or those who by agreement with the licensee make mine visits for technical and investigative work.

Section 2. KRS 351.125 is amended to read as follows:

The department shall provide first-aid training incorporating all training required by the state's approved program for emergency medical technicians ***or the department's mine emergency technician program*** which is applicable ***to***[~~for underground coal~~] mines. Each candidate for certification as a mine foreman shall complete the department's first-aid course of instruction and shall pass an examination on the course as a prerequisite for certification. The course of instruction and examination shall have prior approval of the board.

Section 3. KRS 351.194 is amended to read as follows:

(1) The commissioner or a majority of the board may convene a meeting of the board at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.

(2) If the board determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the board shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than ***twenty (20)***[~~thirty (30)~~] days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The board may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.

(3) The board may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.

(4) Within ***ninety (90)***[~~thirty (30)~~] days after hearing, the board shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the board, which may include though not be limited to the revocation, suspension, or probation of the mine license or the miner's certification.

(5) An appeal of an order of the board shall be filed in the Circuit Court of the county in which the mining operation is located within thirty (30) days of entry of the order.

Section 4. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the department the Division of Mine Safety Analysis.

(2) Persons employed in the division as underground or surface mine safety analysts shall satisfy the applicable requirements established in KRS 351.090.

(3) The primary responsibility of the safety analyst is to prevent mine accidents and fatalities by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. Each time a safety analyst enters a mine to perform his primary responsibility, he shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The safety analyst shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The division shall assist the Division of Miner Training, Education, and Certification in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his discretion assign safety analysts to all[~~ underground~~] mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the work force, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of safety analysts with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the safety analysts in improving mine safety.

Section 5. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

  (a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

  (b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

  (c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

  (d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the Federal Bureau of Mines***,***[~~ or~~] the Mining Enforcement and Safety Administration***, or the Mine Safety and Health Administration*** and is approved by the department[~~ of Mines and Minerals of this state~~];

  (e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

  (f) "Board" means the Mining Board created in KRS 351.105;

(g) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(h) "Commissioner" means commissioner of the Department of Mines and Minerals;

(i) "Department" means the Department of Mines and Minerals;

(j) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(k) "Excavations and workings" means the excavated portions of a mine;

(l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(m) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(n) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976, all underground mines shall be classified as gassy or gaseous;

(o) "High voltage" means any voltage ***of***[~~greater than~~] one thousand (1,000) volts ***or more***;

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(q) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t) "Low voltage" means up to and including six hundred sixty (660) volts;

(u) "Medium voltage" means voltages greater than six hundred sixty (660) ***and*** up to ***nine hundred ninety-nine (999)***[~~one thousand (1,000)~~] volts;

(v) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(w) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(x) "Open-pit mine" shall include open excavations and open-cut workings including auger mines for the extraction of coal;

(y) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(z) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification[~~ by the bureau~~];

(aa) "Preshift examination" means the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(bb) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(cc) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(dd) "Slope" means an inclined opening used for the same purpose as a shaft;

(ee) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ff) "Supervisory personnel" shall mean a person or persons[~~ properly~~] certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(gg) "Tipple or dumping point" means the[~~ tipple or~~] structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(hh) "Working face" means any place in a coal mine ***at***[~~in~~] which ***the extraction of***[~~work of extracting~~] coal from its natural deposit in the earth is performed during the mining cycle;

(ii) "Working place" means the area of a coal mine inby the last open crosscut; and

(jj) "Working section" means all areas of a coal mine from the loading point to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 6. KRS 352.230 is amended to read as follows:

(1) After June 16, 1972, all electrical equipment purchased for face use in underground mines shall be of the permissible type. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

(2) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas where necessary. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment, and shall have a minimum of ***forty-five (45)***[~~ninety (90)~~] days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate[~~ or fire boss certificate~~] before using a flame-safety lamp underground. The examination shall be given by the mine inspector; blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.

(3) No electric face equipment shall be brought within the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame-safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place the electric equipment shall not be taken in until the gas is removed.

(4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%) the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.

(5) Headlights shall be installed and maintained in a permissible and working order on all mobile and face equipment at all times the equipment is in operation.

(6) Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.

(7) At all times when mining equipment is being used, it shall be maintained in safe working order.

Section 7. KRS 352.430 is amended to read as follows:

(1) The operator or superintendent of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.

(2) If any inspector discovers that any mine does not conform to the provisions of KRS Chapters 351 and this chapter in respect to[~~ appliances for~~] the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the ***licensee***[~~operator~~] or superintendent. [~~pursuant to KRS 13B.125, and~~]If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered. If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected. If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected. However, where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel. Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.

(3) In all emergency hearings, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the state and defend the action.

Section 8. KRS 352.480 is amended to read as follows:

(1) The commissioner shall, upon the application ***therefor in the form of an affidavit by***[~~of~~] any ***licensee,*** owner, lessee***,*** or operator, make or cause to be made, at the expense of the applicant, a duplicate of any map on file in his office of any mine owned, leased or operated by the applicant.

(2) No copy of such a map shall be made without the consent of the ***licensee,*** owner, lessee***,*** or operator, except that when the owner of any land adjacent to or near the land of the ***licensee,*** owner, lessee***,*** or operator files an affidavit with the commissioner showing ownership of the adjacent or nearby property, and alleging that he believes that the ***licensee,*** owner, lessee***,*** or operator is encroaching upon or mining on his property, the commissioner shall cause to be furnished to the affiant, at the expense of the affiant, a duplicate of the map filed by the ***licensee,*** owner, operator***,*** or lessee.

(3) When any underground mine is worked out or is about to be abandoned[~~,~~] or indefinitely closed, the ***licensee***[~~operator of the mine~~] shall make or cause to be made a final survey of the mine, to show the entire worked-out area at the time the mine was abandoned or closed. The results shall be ***indicated***[~~extended~~] on the map of the mine previously made, and a copy of the survey shall be filed with the commissioner.

(4) When satisfactory evidence***, in the form of an affidavit,*** is furnished by any person planning to open or reopen a mine, a duplicate copy of a map of any abandoned mine which might affect the safety of the men to be employed in the proposed mine may be furnished the applicant upon request to the commissioner. The duplicate copy of the map shall be made at the expense of the applicant.

SB 318, AN ACT relating to miner training and certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.120 is amended to read as follows:

(1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, ***surface or underground*** mine safety instructor, ***surface mine safety analyst,*** assistant mine foreman, mine foreman,[~~ fire boss,~~] shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position.

(2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, ***surface or underground*** mine safety instructor, ***surface mine safety analyst,*** assistant mine foreman, mine foreman,[~~ fire boss,~~] shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.

(3) Certificates issued to mine foremen ***and***[~~,~~] assistant mine foremen[~~, and fire bosses~~] shall be classified as follows:

(a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; ***and***

(b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman[~~;~~

~~(c) Fire boss certificates, authorizing the holder to act as fire boss or mine examiner in any mine~~].

(4) Any mine foreman or assistant mine foreman may act as ***a*** fire boss or mine examiner[~~, and any regularly employed fire boss may act in an emergency as a mine foreman or assistant mine foreman~~]. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.

(5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.

(6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits[~~ made by well known and responsible persons in the locality from which he came~~], that the applicant[~~ is a man of sobriety and good moral character, and that he~~] has had the required practical experience in underground ***or surface*** coal mines[~~, or to any person who is not either a bona fide resident of this state or employed at an underground mine in this state~~]. A data sheet ***shall***[~~must~~] be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms ***shall***[~~will~~] be furnished by the department. For the purpose of this ***section***[~~subsection~~], persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for ***any*** mine foreman ***or***[~~and~~] assistant mine foreman ***certificate***[~~certificates~~]. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file[~~ a certified transcript of their grades and~~] proof of having received their degree prior to the examination[~~. Applicants for mine foreman certificate must have five (5) years' practical underground experience gained after achieving the age of eighteen (18); at least one (1) year of this experience must be in or on an active working~~]

~~section. Applicants for assistant mine foreman or fire boss certificate must have three (3) years' practical underground experience gained after achieving the age of eighteen (18); at least one (1) year of this experience to be in or on an active working section~~].

(7) ***Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.***

(8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in post-mining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.

(9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman or fire boss prior to July 15, 1982, are not affected by this section.

(10)[~~(8)~~] When approved by the commissioner, ***a***[~~any~~] person ***who has successfully completed any mine foreman or assistant mine foreman examination may be granted a temporary certification that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting***[~~holding a mine foreman's certificate issued by any other state may act in the capacity of mine foreman in any mine in this state until the next regular mine foreman's examination held by the department, but not to exceed a maximum of ninety (90) days~~].

(11)[~~(9)~~] A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

Section 2. KRS 351.1291 is amended to read as follows:

(1) All inexperienced surface coal miners shall complete a sixteen (16) hour course of instruction devised or approved by the department in subjects including, but not limited to: accident prevention, cutting and welding, equipment operation, fire protection, first-aid methods, ground control and transportation, handling and use of explosives, mine communications, mine electrical safety standards, mining law, including miners' rights, safety around bins and hoppers, and any other subjects deemed appropriate by the department. For purposes of this section, "inexperienced coal miners" means all persons who have not previously worked at least ***forty-five (45)***[~~ninety (90)~~] days at a surface coal mine in this Commonwealth.

(2) All surface coal miners shall complete an eight (8) hour course of annual retraining devised or approved by the department in the subjects identified in subsection (1) of this section.

(3) The commissioner shall certify all surface coal miners who complete the courses of instruction required in subsections (1) and (2) of this section.

SB 364, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.01-400 is amended to read as follows:

(1) As used in this section:

(a) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous, or semi-solid form which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. The substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers, or explosive, except that the term "hazardous substance" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section, and shall not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel, or mixtures of natural gas and synthetic gas;

(b) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing hazardous substances, pollutants, or contaminants into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant, but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; the release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the Act, or any release of source by-product, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;

(c) "Site" means any building, structure, installation, equipment, pipe, or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage containers, motor vehicles, rolling stock, or aircraft, or any other place or area where a release or threatened release has occurred. The term shall not include any consumer product in consumer use;

(d) "Environmental emergency" means any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by Section 311(b)(3) of the Federal Clean Water Act - (Public Law 92-500), as amended;

(e) "Threatened release" means a circumstance which presents a substantial threat of a release;

(f) "Pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring; except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section and shall not include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas);

(g) "Environment" means the waters of the Commonwealth, land surface, surface, and subsurface soils and strata, or ambient air within the Commonwealth or under the jurisdiction of the Commonwealth;

(h) "Financial institution" means, for purposes of subsections (26) and (27) of this section, the following:

1. A bank or trust company defined by KRS Chapter 287;
2. A savings and loan association defined by KRS Chapter 289;
3. A credit union defined by KRS Chapter 290;
4. A mortgage loan company or loan broker defined by KRS Chapter 294;
5. An insurer defined by KRS Chapter 304; and
6. Any other financial institution engaged in the business of lending money, the lending operations of which are subject to state or federal regulation; and

(i) "Fiduciary" means, for purposes of subsections (26) and (27) of this section, a fiduciary as defined by KRS Chapter 386.

(2) The cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A designating individual hazardous substances, pollutants, or contaminants; establishing their respective reportable quantities; and establishing their respective release notification requirements, which differ from those designated or established in subsections (3) to (9) of this section, if necessary to:

(a) Protect human health and the environment;

(b) Maintain consistency with valid scientific development; or

(c) Maintain consistency with newly adopted federal regulations.

(3) The hazardous substances for which release notification is required shall be those hazardous substances designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended; those extremely hazardous substances designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986; nerve and blister agents designated under KRS 224.50-130(2); and any hazardous substances designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section.

(4) The reportable quantity for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal

Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the quantity designated in 40 C.F.R. Part 302. The reportable quantity for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the quantity designated in 40 C.F.R. Part 355. The reportable quantity for a release of a nerve or blister agent designated under KRS 224.50-130(2) shall be any quantity. The cabinet may establish reportable quantities for hazardous substances in administrative regulations promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The reportable quantity for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the reportable quantity established by the cabinet.

(5) The release notification requirements for a release of a hazardous substance designated in 40 C.F.R. Part 302 under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, shall be the notification requirements established in 40 C.F.R. Part 302. The release notification requirements for a release of an extremely hazardous substance designated in 40 C.F.R. Part 355 under Title III of the Superfund Amendments and Reauthorization Act of 1986 shall be the notification requirements established in 40 C.F.R. Part 355. Whenever notification of a release or threatened release of a hazardous substance is required pursuant to this section, any person possessing or controlling the hazardous substance shall immediately notify the cabinet's twenty-four (24) hour environmental response line. The cabinet may establish release notification requirements by administrative regulation promulgated pursuant to subsection (2) of this section which differ from those established in this subsection. The release notification requirements for any hazardous substance designated by the cabinet in administrative regulations promulgated pursuant to subsection (2) of this section shall be the release notification requirements established in the cabinet's administrative regulations.

(6) Any person possessing or controlling a pollutant or contaminant for which a reportable quantity has been established by administrative regulation promulgated pursuant to subsection (2) of this section shall immediately notify the cabinet's twenty-four (24) hour environmental response line, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, of a pollutant or contaminant to the environment in a quantity equal to or exceeding the reportable quantity. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(7) Any person possessing or controlling a pollutant or contaminant shall, as soon as that person has knowledge of any release or threatened release of a pollutant or contaminant from a site to the environment in a quantity which may present an imminent or substantial danger to the public health or welfare, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release. If a person possessing or controlling a pollutant or contaminant for which a reportable quantity has not been established in administrative regulations promulgated pursuant to subsection (2) of the section fails to report a release or threatened release because of a good-faith belief that the release did not present an imminent or substantial danger to the public health or welfare, that person shall not be liable for a violation of the release notification requirements of this section. In determining whether a person has acted in good faith, the cabinet shall consider the circumstances surrounding the release, including whether the release was a permitted release or the application of a pesticide in accordance with the manufacturer's instructions.

(8) The cabinet may require the person subject to the release notification requirements of subsections (5) to (9) of this section to provide a written report on the release or threatened release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the release or threatened release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the release or threatened release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the release or threatened release;

(d) The specific pollutant or contaminant or hazardous substance released or threatened to be released;

(e) The concentration and quantity of the pollutant or contaminant or hazardous substance in the release or threatened release;

(f) The circumstances and cause of the release or threatened release;

(g) Efforts taken by the person to control or mitigate the release or threatened release;

(h) To the extent known, the harmful effects of the release or threatened release;

(i) The transportation characteristics of the medium or matrix into which the material was released or threatened to be released;

(j) Any present or proposed remedial action by the person at the site of the release or threatened release;

(k) The name, address, and phone number of the person who can be contacted for additional information concerning the release or threatened release; and

(l) Any other information that may facilitate remediation of the site.

(9) A person possessing or controlling a hazardous substance, pollutant, or contaminant shall immediately notify the cabinet pursuant to subsection (5) of this section when release notification, including notification of a continuous release reported under the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, is provided to the United States Environmental Protection Agency. Within seven (7) days of providing any written notification to the United States Environmental Protection Agency, the person shall submit to the cabinet a copy of the release notification submitted to the United States Environmental Protection Agency. The cabinet shall not require additional information pursuant to subsection (5) of this section if the release notification is in compliance with this subsection, unless a written report is required under subsection (8) of this section or the release or threatened release constitutes an environmental emergency.

(10) Any person in charge of a vessel or site from which oil is discharged in a harmful quantity as defined by 40 C.F.R. Part 110 in contravention of Section 311 of the Federal Clean Water Act shall immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the discharge, the material discharged, and the approximate quantity and concentration of the discharge.

(11) Any person possessing or controlling petroleum or a petroleum product as defined by KRS 224.60-115(15) shall, as soon as that person has knowledge of any release or threatened release, other than a permitted release or application of a pesticide in accordance with the manufacturer's instructions, in an amount of twenty-five (25) gallons or more in a twenty-four (24) hour period, except for diesel fuel for which the reportable quantity is seventy-five (75) gallons or more in a twenty-four (24) hour period, or in contravention of Section 311 of the Federal Clean Water Act, immediately notify the cabinet's twenty-four (24) hour environmental response line. In the notice to be made to the cabinet, the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(12) The cabinet may require the person subject to subsections (10) and (11) of this section to provide a written report on the discharge or release. This report shall be submitted to the environmental response section of the cabinet within seven (7) days of the cabinet's demand for the report. The report shall identify the following:

(a) The precise location of the discharge or release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the discharge or release;

(c) The name, address, and phone number of persons having actual knowledge of the facts surrounding the discharge or release;

(d) The concentration and quantity of the discharge or release;

(e) The circumstances and cause of the discharge or release;

(f) Efforts taken by the person to control or mitigate the discharge or release;

(g) To the extent known, the harmful effects of the discharge or release;

(h) The transportation characteristics of the medium or matrix into which the material was discharged or released;

(i) Any present or proposed remedial action by the person at the site of the discharge or release;

(j) The name, address, and phone number of the person who can be contacted for additional information concerning the discharge or release; and

(k) Any other information that may facilitate an emergency spill response, or remediation of the site.

(13) Timely notification received under the release notification requirements of this section or information obtained in a notification received under the release notification requirements of this section may not be used against the person making the notification in any criminal proceeding, except in a prosecution for submitting a false or untimely notification to the cabinet. Notification received by the cabinet of a threatened release or discharge shall not be deemed a separate incident.

(14) The cabinet shall be the lead agency for hazardous substance, pollutant, or contaminant emergency spill response and, after consultation with other affected federal, state, and local agencies and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the release of a hazardous substance, pollutant, or contaminant. The contingency plan shall:

(a) Provide for efficient, coordinated, and effective action to minimize damage to the air, land, and waters of the Commonwealth caused by the release or threatened release of hazardous substances, pollutants, or contaminants;

(b) Include containment, cleanup, and disposal procedures;

(c) Provide for remediation or restoration of the lands or waters affected consistent with this section;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance, and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared, and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing, and disposing of hazardous substances released or being released.

(15) The cabinet shall have the authority, power, and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual and necessary costs expended in response to a threatened release, an environmental emergency, or a release of a hazardous substance that is reportable under this section. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof, or the amount of liability of any person;

(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of Section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under Section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in the section. The limitations of liability shall apply to the total of state and federal expenses; and

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the release or threatened release is unknown, the cabinet or its agent may contain, remove, or dispose of the hazardous substance, pollutant, or contaminant or take any other action consistent with this section, including, but not limited to, issuance of an emergency order as provided in KRS 224.10-410 to the person possessing, controlling, or responsible for the release or threatened release as necessary for the protection of the environment and public health, safety, or welfare**.**~~[;]~~

(16) Any duly authorized officer, employee, or agent of the cabinet may upon notice to the owner or occupant enter any property, premises, or place at any time for the purposes of this section, if the entry is necessary to prevent damage to the air, land, or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(17) The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been an environmental emergency or a release of a hazardous substance, pollutant, or contaminant. In preparing the inventory, the cabinet shall determine, based on information available to the cabinet, the impact of each site on public health and the environment and identify the relative priority for restoration or remedial action. Upon determining that no further restoration or remedial action is necessary, the cabinet shall so designate the site on the inventory. A separate designation of sites where a remedial action involving on-site containment or treatment has been performed and other sites where restoration of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where restoration or remediation of the environment is not achieved shall be conducted by the cabinet every five (5) years to determine whether additional action is necessary to protect human health or the environment.

(18) Any person possessing or controlling a hazardous substance, pollutant, or contaminant which is released to the environment, or any person who caused a release to the environment of a hazardous substance, pollutant, or contaminant, shall characterize the extent of the release as necessary to determine the effect of the release on the environment, and shall take actions necessary to correct the effect of the release on the environment. Any person required to take action under this subsection shall have the following options:

(a) Demonstrating that no action is necessary to protect human health, safety, and the environment;

(b) Managing the release in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment ***by implementing engineering, institutional, land use restrictions, or other controls***;

(c) Restoring the environment through the removal of the hazardous substance, pollutant, or contaminant; or

(d) Any combination of paragraphs (a) to (c) of this subsection.

(19) Unless otherwise required by the cabinet, a person required to characterize the extent of a release and correct the effect of the release on the environment under subsection (18) of this section may take those actions without making the demonstrations to the cabinet required by subsections (18) to (21) of this section, if:

(a) The release is less than the reportable quantity of a hazardous substance, pollutant, or contaminant;

(b) The release is of a pollutant or contaminant for which a reportable quantity has not been established by administrative regulation promulgated pursuant to subsection (2) of this section, if the release does not present an imminent or substantial danger to the public health or welfare; or

(c) The release is authorized by a state or federal permit.

(20) If a person required to take action under subsection (18) of this section demonstrates to the cabinet that, pursuant to subsection (18)(a) of this section, no action is necessary to protect human health, safety, and the environment or, pursuant to subsection (18)(b) of this section, the release will be managed in a manner that controls and minimizes the harmful effects of the release and protects human health, safety, and the environment, the cabinet shall not require restoration of the environment through the removal of the hazardous substance, pollutant, or contaminant pursuant to subsection (18)(c) of this section.

(21) A person required to take action under subsection (18) of this section who does not restore the environment through removal of the hazardous substance, pollutant, or contaminant in accordance with subsection (18)(c) of this section shall demonstrate to the cabinet that the remedy is protective of human health, safety, and the environment, by considering the following factors:

(a) The characteristics of the substance, pollutant, or contaminant, including its toxicity, persistence, environmental fate and transport dynamics, bioaccumulation, biomagnification, and potential for synergistic interaction and with specific reference to the environment into which the substance, pollutant, or contaminant has been released;

(b) The hydrogeologic characteristics of the facility and the surrounding area;

(c) The proximity, quality, and current and future uses of surface water and groundwater;

(d) The potential effects of residual contamination of potentially impacted surface water and groundwater;

(e) The chronic and acute health effects and environmental consequences to terrestrial and aquatic life of exposure to the hazardous substance, pollutant, or contaminant through direct and indirect pathways;

(f) An exposure assessment;~~[and]~~

(g) ***The effectiveness of engineering or institutional controls and binding land use restrictions or limitations governing the future use of the site; and***

(h) All other available information.

(22) A person who submits a proposal to the cabinet pursuant to subsection (18) of this section may request in writing a final determination on the proposal no sooner than thirty (30) days after its submission. When a final determination on the proposal is requested, the cabinet shall make its final determination within sixty (60) working days from the date the request is received by the cabinet. After a final determination has been made, the person requesting the final determination may request a hearing pursuant to the provisions of KRS 224.10-420. Nothing in this subsection shall relieve any person of any obligations imposed by law during an environmental emergency, nor shall it require the cabinet to approve a proposal which would violate this chapter or the administrative regulations promulgated pursuant thereto.

(23) (a) The cabinet shall have a lien against the real and personal property of a person liable for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the property of the person is located.

(b) If a financial institution exempted from liability by subsection (26) of this section conveys the site it has acquired, then the cabinet shall have a lien against the site for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the site is located.

(24) Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to Section 311 of the Federal Clean Water Act (Public Law 92-500) as amended, but shall be used to provide the Commonwealth with a mechanism for additional response to releases and threatened releases of hazardous substances, pollutants, or contaminants.

(25) Defenses to liability, limitations to liability, and rights to contribution shall be determined in accordance with Sections 107(a) to (d) and 113(f)(1) of the Comprehensive Environmental Response Compensation and Liability Act, as amended, and the Federal Clean Water Act, as amended.

(26) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution that acquired a site by foreclosure, by receiving an assignment, by deed in lieu of foreclosure, or by otherwise becoming the owner as a result of the enforcement of a mortgage, lien, or other security interest held by the financial institution, shall not be liable under this section with respect to the site, if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before its acquisition;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before its acquisition;

(c) The financial institution did not participate in the day-to-day management of the site before its acquisition;

(d) The financial institution, at the time it acquired the site, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time of acquisition, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

(27) In addition to the defenses and limitations provided in subsection (25) of this section, a financial institution serving as a fiduciary with respect to an estate or trust, the assets of which contain a site, shall not be liable under this section with respect to the site if:

(a) The financial institution served only in an administrative, custodial, financial, or similar capacity with respect to the site before it became a fiduciary;

(b) The financial institution did not control or direct the handling of the material causing the environmental emergency, or control or direct the handling of the hazardous substance, pollutant, or contaminants, at the site before it became a fiduciary;

(c) The financial institution did not participate in the day-to-day management of the site before it became a fiduciary;

(d) The financial institution, at the time it became a fiduciary, did not know and had no reason to know that a hazardous substance, pollutant, or contaminant was disposed at the site. For purposes of this paragraph, the financial institution shall have undertaken, at the time it became a fiduciary, all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. What actions constitute all appropriate inquiries shall be determined by taking into account any specialized knowledge or experience on the part of the financial institution, the relationship of the market value of the site to the value of the site if uncontaminated, commonly known or reasonably ascertainable information about the site, the obviousness of the presence or likely presence of contamination at the site, the ability to detect the contamination by appropriate inspection, and any other relevant factor;

(e) The financial institution, when it undertakes actions to protect or preserve the value of the site, undertakes those actions in accordance with this chapter and the administrative regulations adopted pursuant thereto;

(f) The financial institution, its employees, agents, and contractors did not cause or contribute to an environmental emergency, or to a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(g) The financial institution complies with the release notification requirements of subsection (9) of this section.

Calendar

SB 95, SB 128, SB 145 and **SB 374** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolution has been posted for Committee consideration:

Transportation: **HR 136**

Floor Amendments

Floor Amendment No. 1 to **SB 133**, by Representative Gooch:

On page 4, after line 3, by inserting the following:

"Section 3. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;~~[and]~~

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations.".

Floor Amendment No. 1 to **SB 248**, by Representative Barrows:

On page 1, line 7, by adding after the first "***the***" the words "***traffic and motor vehicle***" and by adding after the word "***Commonwealth***" the words "***of Kentucky***" and by adding after the word "***local***" the words "***traffic and motor vehicle***"; and

On page 1, line 8, by deleting the words "***including traffic laws and ordinances***"; and

On page 1, by deleting lines 17 through 20 in their entirety.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

The Committee on Rules reported that **SB 119, SB 146, SB 214, SB 336, SJR 118, SB 163, SB 288, SB 295, SB 355, SB 31, SB 58, SB 61, SB 151,** and **SB 227** have been posted for passage in the Orders of the Day for March 25, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **SB 171, SB 248, HB 878, HR 134**

Floor Amendments (Continued)

Floor Amendment No. 5 to the House Committee Substitute to **SB 328**, by Representative Hoover:

On page 7, after line 8, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 216B.020, the issuance of a certificate of need shall not apply to the relocation of hospital administrative or outpatient services into medical office buildings which are on, or contiguous to, the premises of a hospital, or to the following health services performed on site in an existing health facility:

(1) Services where the amortization cost per year is less than six hundred thousand dollars ($600,000) and the provider gives notice of intent to perform the services by December 30, 1991; and

(2) Psychiatric care services, chemical dependency services, level one (1) and level (2) neonatal care services, cardiac catheterization, and open heart sergery where cardiac catheterization services are performed on site as of December 30, 1991.".

Orders of the Day

SB 164 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 164** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 24, 1998 roll call on **SB 164** - Appendix.) **SB 164** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 164** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 276 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **SB 276** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 24, 1998 roll call on **SB 276** - Appendix.) **SB 276** was passed and the title agreed to. Representative L. Clark moved that the vote by which **SB 276** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 147** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 24, 1998 roll call on **SB 147** - Appendix.) **SB 147** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 160 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 160** be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 24, 1998 roll call on **SB 160** - Appendix.) **SB 160** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 160** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 72** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 24, 1998 roll call on **SB 72** - Appendix.) **SB 72** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **SB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 65, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **SB 65**. Agreed.

Representative Burch moved that **SB 65**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 4 (See March 24, 1998 roll call on **SB 65** - Appendix.) **SB 65**, by way of Committee Substitute, was passed and the title agreed to. Representative Burch moved that the vote by which **SB 65**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 28, SB 36, SB 43, SB 59, SB 68, SB 70, SB 78, SB 83, SB 102, SB 106, SB 122, SB 161, SB 165, SB 198, SB 207, SB 250, SB 269, SB 296, SB 320,** and **SB 354** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:45 p.m.)

Orders of the Day (Continued)

SB 77 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 77** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 24, 1998 roll call on **SB 77** - Appendix.) **SB 77** was passed and the title agreed to.

SB 352 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 352** be passed.

On the roll call the vote was: Yeas 84, Nays 5 (See March 24, 1998 roll call on **SB 352** - Appendix.) **SB 352** was passed and the title agreed to. Representative Lindsay moved that the vote by which **SB 352** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 41, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **SB 41**. Agreed.

Representative A. Arnold moved that **SB 41**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 24, 1998 roll call on **SB 41** - Appendix.) **SB 41**, by way of Committee Substitute, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **SB 41**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 261 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **SB 261** be passed.

On the roll call the vote was: Yeas 89, Nays 5 (See March 24 , 1998 roll call on **SB 261** - Appendix.) **SB 261** was passed and the title agreed to. Representative Ford moved that the vote by which **SB 261** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 277, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Murgatroyd moved the adoption of Floor Amendment No. 1 to **SB 277**. Agreed.

Representative Jenkins moved that **SB 277**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 11 (See March 24, 1998 roll call on **SB 277** - Appendix.) **SB 277**, as amended, was passed and the title agreed to. Representative Jenkins moved that the vote by which **SB 277**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 92, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 92** is as follows:

On page 1, line 4 after the period "." by inserting "***(a)***"; and

On page 1, line 7 after the semi-colon ";" by inserting "***and***

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175)

days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;" and

On page 3, after line 21 by inserting the following:

"Section 2. KRS 157.350 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the fund to support education excellence in Kentucky:

(1) Employs and compensates all teachers for not less than one hundred eighty-five (185) days. The Kentucky Board of Education, upon recommendation of the chief state school officer, shall prescribe procedures by which this requirement may be reduced during any year for any district which employs teachers for less than one hundred and eighty-five (185) days, in which case the eligibility of a district for participation in the public school fund shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and administrative regulations of the Kentucky Board of Education. If the school term is less than one hundred eighty-five (185) days for any reason not approved by the Kentucky Board of Education on recommendation of the chief state school officer, the eligibility of a district for participation in the public school fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Includes no nonresident pupils in its average daily attendance, except ***as follows:*** [~~by~~]

(a) Pupils listed under a written agreement with the district of the pupils' legal residence. If an agreement cannot be reached, either board may appeal to the chief state school officer for settlement of the agreement. The chief state school officer shall have thirty (30) days to establish the terms of agreement. Either board may appeal the chief state school officer's decision to the Kentucky Board of Education. The Kentucky Board of Education shall have sixty (60) days to approve or amend the agreement of the chief state school officer. In consideration of these appeals, the chief state school officer and the Kentucky Board of Education shall give preference to the best interest of the individual student. This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital; ***and***

(b) Pupils who have been expelled for behavioral reasons who shall be counted in average daily attendance under Section 1 of this Act;

(5) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same program for girls;

(6) Any school district which fails to comply with subsection (5) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the Department of Education after a hearing requested by any person within the school district. The hearing shall be conducted in accordance with KRS Chapter 13B. A district under this subsection shall, at the hearing, have an opportunity to show inability to comply.

Representative L. Clark moved that the House concur in Senate Floor Amendment No. 1 to **HB 92**. Agreed.

Representative L. Clark moved that **HB 92**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 24, 1998 roll call on **HB 92** - Appendix.) **HB 92**, as amended by the Senate, was passed and the title agreed to. Representative L. Clark moved that the vote by which **HB 92**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 431, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 431** is as follows:

AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) [~~(a)~~]The department may ***issue***[~~promulgate administrative regulations, pursuant to KRS Chapter 13A, to govern the issuance of~~] permits for the operation of motor vehicles, manufactured homes, recreational vehicles, ***boats, or any other vehicle transporting a nondivisible load***[~~vehicles transporting microwave satellite television antennae, and vehicles transporting boats or farm equipment~~], whose gross weight including load, height, width, or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes, and unusual conditions, and upon terms in the interest of public safety and the preservation of the highways as the department may require.

(2) Except as provided in subsection (7) of this section, the department may, at the request of an applicant, issue a

single-trip permit regardless of the type of vehicle or equipment being transported that exceeds the weight or dimension limits established by this chapter if the load being transported is a nondivisible load. A single-trip permit shall cost sixty dollars ($60) for each overweight or overdimensional permit requested.

(3) Except as provided in subsection (7) of this section, the department may, at the request of an applicant, issue an annual permit regardless of the type of vehicle or equipment being transported that exceeds the weight or dimension limits established by this chapter if the load being transported is a nondivisible load. The vehicle shall not exceed sixteen (16) feet in width exclusive of usual and ordinary overhang, one hundred twenty (120) feet in length including a towing vehicle and trailer combination, thirteen (13) feet six (6) inches in height, or one hundred twenty thousand (120,000) pounds. Except as provided in subsections (4) and (7) of this section, an annual permit for loads less than fourteen (14) feet in width shall cost two hundred fifty dollars ($250). An annual permit for loads exceeding fourteen (14) feet in width shall cost five hundred dollars ($500).

(4) An annual permit to transport farm equipment less than fourteen (14) feet in width shall cost eighty dollars ($80). An annual permit to transport farm equipment that exceeds fourteen (14) feet in width from a dealership to a farm or from a farm to a dealership shall cost one hundred fifty dollars ($150).

(5) Permits issued under this section shall be for nondivisible loads and shall be valid statewide; however, the department may, as a condition of issuing an annual or single-trip permit, limit the overweight or overdimensional vehicle to specified routes, exclude certain highways, or even cancel an applicant's permit if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of the overweight or overdimensional vehicle. A person who applies for, and accepts, a permit issued under this section is acknowledging that the Kentucky Transportation Cabinet is not guaranteeing safe passage of vehicles by issuing the permit. A person who applies for, and accepts, a permit issued under this section agrees to measure all clearances of highway structures, both laterally and vertically, prior to passage of the person's vehicles along the routes specified in the permit. A person who applies for, and accepts, a permit issued under this section is classified as a bare licensee whose duty is to assume sole risk involved in using Kentucky's highways without warranty of accuracy.

(6) The department shall promulgate administrative regulations under KRS Chapter 13A to establish requirements for escort vehicles, safety markings, and other safety restrictions governing the operation of an overweight or overdimensional vehicle. The department shall provide each applicant for an annual or single-trip permit issued under this section a copy of all restrictions associated with the overweight or overdimensional permit at no charge to the applicant. The department shall be prohibited from raising the permit fee established in subsections (2) and (3) of this section by levying additional fees for an overweight or overdimensional permit through the administrative regulation process.

(7) The cabinet shall not issue an annual permit under this section if the person applying for the permit is eligible for an annual permit issued under KRS 189.2715 or 189.2717.

[~~(b) The department shall require an applicant to pay a single trip fee of sixty dollars ($60) for each overweight or overdimensional permit issued except as set forth below:~~

~~1. Twenty dollars ($20) for each single trip manufactured home permit if the manufactured home is fourteen (14) feet wide or less; and~~

~~2. Forty dollars ($40) for each single trip manufactured home permit if the manufactured home exceeds fourteen (14) feet in width.~~

~~(c) The department shall require an applicant to pay a fee as follows for any annual overdimensional permit issued:~~

~~1. Eighty dollars ($80) for each annual permit to transport:~~

~~a. Farm equipment;~~

~~b. Utility equipment transporter including towing vehicle and trailer combination which does not exceed ninety five (95) feet in length or twelve (12) feet in width;~~

~~c. Boat transporter; or~~

~~d. Microwave antennae transporter permit;~~

~~2. Five hundred dollars ($500) for each annual manufactured home permit if the manufactured home is sixteen (16) feet or less in width;~~

~~3. Eighty dollars ($80) for each annual manufactured home permit if all manufactured homes transported during the year are less than fourteen (14) feet in width; and~~

~~4. Five hundred dollars ($500) for each annual boat permit for units in excess of sixty five (65) feet in length and sixteen (16) feet in width.~~]

(8)[~~(d)~~] The department may require the applicant to give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of[~~ motor~~] vehicles[~~, manufactured homes, and recreational vehicles~~] in accordance with the terms of the permit *issued under this section*

shall not constitute a violation of this chapter if the operator has the permit, or an authenticated copy of it, in his possession.

[~~(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or sixteen (16) feet in width exclusive of usual and ordinary overhang. The department may, by administrative regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and sixteen (16) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of the units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the Department of Vehicle Regulation, Division of Motor Carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit the trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedance of the flow of traffic would be created.~~

~~(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).~~

~~(4) The department shall, for a fee not to exceed one hundred fifty dollars ($150), issue an annual permit for the operation of a motor vehicle or vehicle described in subsection (1) of this section when the motor vehicle or vehicle exceeds the dimension limits for length or width prescribed by KRS 189.221 or 189.222, if:~~

~~(a) The motor vehicle is engaged in the transporting of farm equipment from the dealership to the farm or from the farm to the dealership; and~~

~~(b) The width of the motor vehicle or vehicle does not exceed sixteen (16) feet, including any part of the body or load.~~

~~(5) Upon the issuance of an annual permit for the operation of a motor vehicle or vehicle described in subsection (4) of this section, the department shall provide each applicant free of charge a publication which contains a description of the administrative regulations that are applicable to the operation of the motor vehicle or vehicle including escort vehicles, safety markings, and other applicable restrictions. The department shall update the publication within thirty (30) days of any change in an administrative regulation that pertains to the operation of a motor vehicle or vehicle described in subsection (4) of this section.~~

~~(6) (a) Annual overlength permits may be issued to any utility pole or pipe transporter under the following conditions:~~

~~1. An annual overlength permit may be issued for a towing vehicle and trailer combination which does not exceed one hundred twenty-five (125) feet in overall length. Restrictions may be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedance of traffic flow could be created. An annual permit to transport poles or pipe which are fifty-five (55) feet or less in length shall cost one hundred dollars ($100). An annual permit to transport poles or pipe which are more than fifty-five (55) feet in length shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles for transportation of poles or pipes which exceed fifty-five (55) feet in length, and the permit holder shall notify the Department of Highways of each trip or series of trips to be made that requires an escort. The department may cancel or reroute the trip if an unreasonable risk of accident or impedance of the flow of traffic could be created.~~

~~2. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on a specially designed pole rack mounted on the body of the truck if the pole or pipe length exceeds forty-five (45) feet. Restrictions may also be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedance to traffic flow could be created. The cost of this overlength permit shall be one hundred dollars ($100).~~

~~3. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on specially designed pole racks mounted on the body of the truck if the pole or pipe length exceeds fifty-five (55) feet, but does not exceed ninety-five (95) feet. The permit shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedance of the flow of traffic could be created.~~

4. ~~More than one (1) type of permit authorized in subparagraphs 1. and 2. of this paragraph may be issued for the same vehicle. The maximum cost of the multiple use annual permit shall be three hundred fifty dollars ($350).~~

~~(b) The secretary of transportation shall, by administrative regulation, prescribe additional safety requirements for~~

~~movements of these vehicles. Administrative regulations promulgated for this subsection and for utility equipment transporters under subsection (1) of this section shall not restrict the ability of a permit holder to respond to an emergency due to an electrical or gas outage.~~

~~(7) Each motor carrier used in transporting prefabricated wood trusses, used in residential and commercial construction, which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit. The Department of Vehicle Regulation shall charge the applicant a fee of five hundred dollars ($500) for each annual permit. A copy of the permit shall be carried at all times in the vehicle and shall be shown to a peace officer upon demand. The department may restrict the use of the permits to specified routes or exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or impedance of the flow of traffic could result. The department shall promulgate administrative regulations setting forth the safety requirements which shall be met prior to the movement of any vehicle under the provisions of this permit including setting the dimensions at which the transporter shall contact the department for specific, individual authority for the movement under the annual permit.~~]

(9)[~~(8)~~] Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection ***(2)***[~~(1)~~] of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, a fee shall not be assessed by the department to issue the permit.

(10)[~~(9)~~] A person shall not operate any[~~ motor~~] vehicle[~~, manufactured home, or recreational vehicle~~] in violation of the terms of the permit ***issued under this section***.

Section 2. KRS 189.2717 is amended to read as follows:

(1) Subject to the provisions of KRS 189.222, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting nondivisible loads in this Commonwealth whose gross weight exceeds the limits prescribed by this chapter.[~~ In no instance shall~~] The gross weight of a motor vehicle operating pursuant to this section ***shall not*** exceed one hundred twenty thousand (120,000) pounds. The movement of the overweight motor vehicle shall be limited to a specific route set forth on the annual permit.

(2) The following axle weights shall not be exceeded in the loading of a nondivisible load:

(a) Single axle with axles less than forty-two (42) inches apart ***and being the steering axle with one (1) wheel on each side of the axle*** to be considered a single axle shall not be more than fifteen thousand (15,000) pounds;

(b) Two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart shall not be more than forty thousand (40,000) pounds;

(c) Three (3) axles in tridem arrangement which are spaced forty-two (42) or more inches apart and less than one hundred twenty (120) inches apart shall not be more than sixty-five thousand (65,000) pounds***; and***

(d) Dual wheel axle with one (1) axle with two (2) wheels on each side of the axle to be considered a dual wheel axle shall not be more than twenty thousand (20,000) pounds each.

(3) Each motor vehicle operating pursuant to this section shall comply with the safety provisions set forth in the administrative regulations promulgated by the department pursuant to this section.

(4) The fee for the annual permit for each motor vehicle pursuant to this section shall be five hundred dollars ($500).

(5) The department may refuse to issue a permit for a requested route because of the inadequacies of the roadway or a structure on that route.

Section 3. The following KRS sections are repealed:

189.273 Permit for transportation of soil conservation and other specialized equipment -- Escort vehicles.

189.274 Special permits for moving specialized equipment.

Representative Coleman moved that the House concur in Senate Committee Substitute to **HB 431**. Agreed.

Representative Coleman moved that **HB 431**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 24, 1998 roll call on **HB 431** - Appendix.) **HB 431**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 431**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 226, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 226** is as follows:

On page 5, line 23 after "***of***" by adding "***ten***" and by deleting "***fifteen***";

On page 5, line 24 after the first "***dollars***" and before "***($15)***" by inserting "***($10)***" and by deleting "***($15)***";

On page 5, line 26 before "***fifteen***" by inserting "***ten***" and by deleting "***fifteen***", and before "***($15)***" by inserting "***($10)***" and by deleting "***($15)***", and before "***This***" by inserting "***No other fees or penalties shall be applied.***"; and

On page 8, line 4 after "***than***" by adding "***two (2)***" and by deleting "***three (3)***".

Representative Coleman moved that the House refuse to concur in Senate Floor Amendment No. 1 to **HB 226**.

On the roll call to refuse to concur the vote was: Yeas 85, Nays 13 (See March 24, 1998 roll call on **HB 226** - Appendix.) The motion that the House refuse to concur in Senate Floor Amendment No. 1 to **HB 226** was adopted.

Floor Amendments (Continued)

Floor Amendment No. 3 to the House Committee Substitute to **SB 233**, by Representative Heleringer:

On page 10, between lines 17 and 18, insert the following:

"***(m) Any citizen of the Commonwealth who is eighteen (18) years of age or older who resides in the county where vegetation screens an outdoor advertising device that is located on public right-of-way, shall have standing to file suit in the Circuit Court of the county where the vegetation is located to appeal the issuance of a permit for vegetation control and to assert a challenge against the owner of the advertising device authorized by the Transportation Cabinet for any potential unlawful cutting, trimming, or removal of the vegetation.***

(n) Any citizen who files suit under paragraph (m) of this subsection shall name the Transportation Cabinet and the owner of the outdoor advertising device as parties to the suit.".

Floor Amendment No. 6 to **SB 18**, by Representative Wilkey:

On page 4, after line 3, by inserting:

"Section 3. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and ***wastewater***~~[waste water]~~ treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;~~[and]~~

(d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government***; and***

(e) It is the intent of the General Assembly that the disposal of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The Cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, treat the disposal of this sludge by composting as an industrial process.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

(3) For the disposal of water treatment sludge or wastewater treatment sludge, a permit application to establish, operate,

or modify a composting site or composting facility shall require immediately the general public notice provided for in subsections (4) and (5) of KRS 224.40-310. If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing and a final decision of the secretary. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process."

Floor Amendment No. 1 to **SB 247**, by Representative D. Butler:

On page 1, lines 13 and 14, by deleting "***eleven (11)***" and inserting "***ten (10)***" in lieu thereof;

On page 1, line 23, by deleting "***four (4)***" and inserting "***three (3)***" in lieu thereof;

On page 1, line 25, after "***1.***" by deleting "***Secretary of the Finance and Administration Cabinet;***"

On page 2, line 1, by deleting "***2.***";

On page 2, line 2, by deleting "***3.***" and inserting "***2.***" in lieu thereof;

On page 2, line 3, by deleting "***4.***" and inserting "***3.***" in lieu thereof; and

On page 3, line 11, by deleting "***Finance and Administration Cabinet***" and inserting "***Kentucky Department of Agriculture***".

Floor Amendment No. 10 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 1, line 3, by changing "***10***" to "***12***"; and

On page 3, line 9, by changing "***10***" to "***12***"; and

On page 3, line 13, by changing "***10***" to "***12***"; and

On page 3, line 27, by changing "***10***" to "***12***"; and

On page 9, line 4, by changing "***10***" to "***12***"; and

On page 9, line 16, by changing "***10***" to "***12***"; and

On page 10, line 7, by changing "***10***" to "***12***"; and

On page 10, between lines 8 and 9, by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a Forestry Best Management Practices Board consisting of thirteen (13) members for the purposes of updating Kentucky's forest practice guidelines for water quality management and the Division of Forestry's administrative regulations regarding timber harvesting operations, and supervising the implementation of forestry best management practices and timber harvesting operations regulations by the Division of Forestry. The offices of the board shall be maintained at a place designated by the board.

(2) The initial appointments to the board shall be made within one (1) year of the effective date of this Act, and the appointments shall be for staggered terms to assure continuity. The Governor shall appoint members to the board representing the following:

  (a) Five (5) members who are farmers or woodland owners with at least fifty (50) acres of woodland and who are actively engaged in woodland management:

    1. One (1) of these members from a list of three (3) persons nominated by the Kentucky Woodland Owners Association;

    2. One (1) of these members from a list of three (3) persons nominated by the Kentucky Department of Agriculture;

    3. One (1) of these members from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation; and

    4. Two (2) of these members shall be farmers at large;

  (b) One (1) logger in good standing;

  (c) One (1) member of the Department of Forestry of the University of Kentucky;

  (d) One (1) member of the Kentucky Division of Forestry;

  (e) Three (3) members of a Kentucky wood industry; and

  (f) Two (2) members at large who are woodland owners.

(3) Except for initial staggered appointments, board memberships shall be for a period of four (4) years, and members

may be appointed to no more than two (2) full consecutive terms. Appointments to the board shall be made consistent with subsection (2) of this section.

(4) The chair of the board shall be chosen from the members selected to meet the criteria in subsection (2) of this section.

(5) The board shall review existing forestry best management practices within one (1) year after establishment of the board and shall conduct periodic reviews for rewriting the best management practices regulations no sooner than every five (5) years thereafter.

(6) The board shall oversee implementation of best management practice education and enforcement by the Division of Forestry.

(7) The board shall meet at least once a year for the purpose of conducting its oversight responsibilities."

On page 10, line 9, by changing "11" to "12"; and

On page 10, line 11, by changing "***10***" to "***12***".

Floor Amendment No. 1 to **SB 226**, by Representative R. Adams:

On page 2, after line 21, insert the following:

Section 4. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system after July 1, 1914, or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls;~~[and]~~

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit***; and***

(d) "Public use road" means any road that has been open to use by the general public as a matter of right without restriction for at least fifteen (15) years and has not been formally dedicated and accepted as a county road under the provisions of this chapter.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of ***the***~~[such]~~ city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.220 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city, provided that the city agrees to pay the costs if any associated with any such agreement.

(5) A fiscal court shall not perform work on or maintain a public use road.

SECTION 5. A NEW SECTION OF KRS CHAPTER 178 IS CREATED TO READ AS FOLLOWS:

A property owner whose land adjoins a public use road shall not be denied access by another property owner with land adjoining the public use road. Any property owner denied access may enforce right of access by filing a private action with the District Court having jurisdiction over the public use road and requesting the court to grant access through a summary proceeding establishing the road is a public use road.

Section 6. KRS 178.025 is amended to read as follows:

(1) ***Except for public use roads,*** any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions by the general public for five (5) consecutive years, shall conclusively be presumed to be a public road.

(2) In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks ***including***~~[such as]~~ fences, fence posts, corner stones or other similar monuments indicating the boundary line.

(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to ***the***~~[said]~~ road, and to the top of ***any*** cuts or toe of fills~~[where such exist]~~.

On page 2, on line 22, renumber "Section 4" to "Section 6".

Orders of the Day (Continued)

HB 402, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 402** is as follows:

On page 3, line 16, by deleting "***or***"; and

On page 3, line 18, by deleting "***.***" and inserting "***; or***"; and

On page 3, after line 18, by adding:

"***(d) The insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.***".

The Senate Floor Amendment No. 2 to **HB 402** is as follows:

On page 3, line 17, deleting all material on the line after "***(c)***" and inserting in lieu thereof "***The insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.***"; and

On page 3, by deleting line 18 in its entirety; and

On page 6, line 17, by deleting all material after "***more***" and inserting "***losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.***"; and

On page 6, by deleting line 18 in its entirety.

Representative Crimm moved that the House concur in Senate Committee Amendment No. 1 to **HB 402**. Agreed. Representative Crimm moved that the House concur in Senate Floor Amendment No. 2 to **HB 402**. Agreed.

Representative Crimm moved that **HB 402**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 24, 1998 roll call on **HB 402** - Appendix.) **HB 402**, as amended by the Senate, was passed and the title agreed to. Representative Crimm moved that the vote by which **HB 402**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 307, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 307** is as follows:

On page 1, line 7 by bracketing and striking through the word "nonprofit".

Representative Mason moved that the House concur in Senate Committee Amendment No. 1 to **HB 307**. Agreed.

Representative Mason moved that **HB 307**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 24, 1998 roll call on **HB 307** - Appendix.) **HB 307**, as amended by the Senate, was passed and the title agreed to. Representative Mason moved that the vote by which **HB 307**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 391, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 391** is as follows:

On page 2, line 19, by deleting the words "***the Finance and Administration***; and

On page 2, line 20, by deleting "***Cabinet and***" and

On page 3, line 2, after "***(2)***," by deleting the remainder of line 2; and

On page 3, lines 3 through 7, by deleting lines 3 through 7 in their entirety; and

On page 3, line 8, by deleting "***(b)***"; and

On page 3, line 19, by deleting "***the Finance and Administration Cabinet and***"; and

On page 3, line 26, by deleting "***the Finance and Administration Cabinet and***"; and

On page 4, line 1, by deleting "***secretary of finance and administration or the***"; and

On page 4, line 4, by deleting "***who removed the firm***"; and

On page 4, line 5, after "***committee***", by deleting "***, without the Finance and***"; and

On page 4, line 6, by deleting "***Administration Cabinet user representative,***"; and

On page 5, line 9, after "***projects***", by inserting "***in accordance with applicable licensing statutes***"; and

On page 8, line 9, before "Consulting", by inserting "***Kentucky***"; and

On page 8, line 9, after "Council", by bracketing and striking through "of Kentucky"; and

On page 10, line 11, before "Consulting", by inserting "***Kentucky***"; and

On page 10, line 11, after "Council", by bracketing and striking through "of Kentucky".

The Senate Floor Amendment No. 2 to **HB 391** is as follows:

On page 2, after line 16 by inserting the following:

"***(3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract shall be awarded under the provisions of this section before completion of the review procedure provided for in KRS 45A.695 and 45A.705.***

Representative Long moved that the House concur in Senate Floor Amendment No. 1 to **HB 391**. Agreed. Representative Long moved that the House concur in Senate Floor Amendment No. 2 to **HB 391**. Agreed.

Representative Long moved that **HB 391**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 24, 1998 roll call on **HB 391** - Appendix.) **HB 391**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 391**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 131, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 131** is as follows:

On page 2, line 2, after the word "Resources.", by inserting the following: "***Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.***".

Representative Burch moved that the House concur in Senate Committee Amendment No. 1 to **HB 131**. Agreed.

Representative Burch moved that **HB 131**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 1 (See March 24, 1998 roll call on **HB 131** - Appendix.) **HB 131**, as amended by the Senate, was passed and the title agreed to. Representative Burch moved that the vote by which **HB 131**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 333, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 333** is as follows:

On page 2, line 2, By inserting "***and the***" preceding "***Homeless***";

And on page 2, line 3, By deleting "***; a member of the state Senate; and a member of the House of***";

And on page 2, line 4, By deleting "***Representatives***".

Representative Jenkins moved that the House concur in Senate Floor Amendment No. 1 to **HB 333**. Agreed.

Representative Jenkins moved that **HB 333**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 2 (See March 24, 1998 roll call on **HB 333** - Appendix.) **HB 333**, as amended by the Senate, was passed and the title agreed to. Representative Jenkins moved that the vote by which **HB 333**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 429, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 429** is as follows:

On page 2, line 12 by deleting "***any affiliate or subsidiary of any of the above,***"; and

On page 2, line 14 after "***Commonwealth***" by adding "***, and any affiliate or subsidiary of any of the above***"

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 429**. Agreed.

Representative Long moved that **HB 429**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 1 (See March 24, 1998 roll call on **HB 429** - Appendix.) **HB 429**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 429**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 2, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 2** is as follows:

AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds the following:

- *(a) Judicial decisions concerning religion, free speech, and public education are widely misunderstood and misapplied;*
- *(b) Confusion surrounding these decisions has caused some to be less accommodating of the religious liberty and free speech rights of students than permitted under the First Amendment to the United States Constitution;*
- *(c) Confusion surrounding these decisions has resulted in needless conflicts and litigation;*
- *(d) The Supreme Court of the United States has ruled that the establishment clause of the First Amendment to the United States Constitution requires that public schools neither advance or inhibit religion. Public schools should be neutral in matters of faith and should treat religion with fairness and respect;*
- *(e) Neutrality to religion does not require hostility to religion. The establishment clause does not prohibit reasonable accommodation of religion, nor does the clause prohibit appropriate teaching about religion;*
- *(f) Accommodation of religion is required by the free speech and free exercise clauses of the First Amendment to the United States Constitution; and*
- *(g) Setting forth the religious liberty rights of students in a statute would assist students and parents in the enforcement of the religious liberty rights of students and would provide impetus to efforts in public schools to accommodate religious belief in feasible cases.*

(2) The purpose of Sections 1 to 7 of this Act is to create a safe harbor for schools desiring to avoid litigation and to allow the free speech and religious liberty rights of students to the extent permissible under the establishment clause.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 this Act, unless the context requires otherwise:

(1) "Establishment clause" means the portion of the First Amendment to the United States Constitution that forbids laws respecting an establishment of religion;

(2) "Free exercise clause" means the portion of the First Amendment to the United States Constitution that forbids laws prohibiting the free exercise of religion;

(3) "Free speech clause" means the portion of the First Amendment to the United States Constitution that forbids laws abridging the freedom of speech;

(4) "Public school" means any school that is operated by the state, a political subdivision of the state, or a governmental agency within the state; and

(5) "Student" means an individual attending a public school.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A student shall have the right to carry out an activity described in any of paragraphs (a) to (d) of subsection (2) of this section, if the student does not:

- *(a) Infringe on the rights of the school to:*
  - *1. Maintain order and discipline;*
  - *2. Prevent disruption of the educational process; and*
  - *3. Determine educational curriculum and assignments;*
- *(b) Harass other persons or coerce other persons to participate in the activity; or*
- *(c) Otherwise infringe on the rights of other persons.*

(2) Subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

(a) Pray in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in the public school;

(b) Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school;

(c) Speak to and attempt to discuss religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students. However, any student may demand that this speech or these attempts to share religious viewpoints not be directed at him or her;

(d) Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious topics or subjects in the school; and

(e) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

(3) No action may be maintained under Sections 1 to 7 of this Act unless the student has exhausted the following administrative remedies;

(a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;

(b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

(c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

(d) Only after the superintendent's investigation and action, may a student or the student's parent or legal guardian pursue any other legal action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 7 of this Act shall be construed to affect, interpret, or in any way address the establishment clause.

(2) The specification of religious liberty or free speech rights in Sections 1 to 7 of this Act shall not be construed to exclude or limit religious liberty or free speech rights otherwise protected by federal, state, or local law.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 7 of this Act shall be construed to support, encourage, or permit a teacher, administrator, or other employee of the public schools to lead, direct, or encourage any religious or anti-religious activity in violation of the portion of the First Amendment of the United States Constitution prohibiting laws respecting an establishment of religion.

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Department of Education shall send copies of Sections 1 to 7 of this Act to each local school board and school-based decision making council in Kentucky on an annual basis.

SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Nicole Hadley, Jessica James, and Kayce Steger Act.

Representative Damron moved that the House concur in Senate Committee Substitute to **HB 2**. Agreed.

Representative Damron moved that **HB 2**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 24, 1998 roll call on **HB 2** - Appendix.) **HB 2**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 2**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 263, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Coleman moved the final passage of **HB 263,** by way of Senate Committee Substitute as amended by the Senate.

On the roll call on the final passage of **HB 263** the vote was: Yeas 85, Nays 1 (See March 24, 1998 roll call on **HB 263**

- Appendix.) **HB 263**, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 263**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 328, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 328** is as follows:

On page 2, after line 25, by inserting the following:

"Section 2. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth or helpful to the efficient and effective enforcement, administration, or collection of motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of the motor fuels tax, or the petroleum environmental assurance fee.

Section 3. The amendment contained in section 1 of this Act shall apply for payments remitted on or after August 1, 1998." and

On page 2, by deleting lines 26 and 27 in their entirety.

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 328**. Agreed.

Representative Long moved that **HB 328**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 24, 1998 roll call on **HB 328** - Appendix.) **HB 328**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 328**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 382, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 382** is as follows:

On page 2, between lines 11 and 12, by adding the following:

Section 2. KRS 42.4588 is amended to read as follows:

(1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development; and

(b) Industrial development projects if the secretary of the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development.

(c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development under the provisions of subsection (3) of this section.

(3) The secretary of the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary may also approve privately-owned facilities for transient lodging and recreation where the secretary finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(7) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(8) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.

(9) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(10) For purposes of this section:

(a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; and other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; *job development incentive grants;* ~~[and]~~

(b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section*; and*~~[.]~~

(c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm and the Cabinet for Economic Development shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;

2. At least twenty five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;

3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;

4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;

5. Each employee hired for the project by the industrial firm shall have worked on a full time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and

6. No job created by the industrial firm after twenty four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met.

(11) Findings by the secretary of the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(12) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

On page 2, line 12, by changing "Section 2" to "Section 3";

On page 2, line 18, after "and" the first time it appears on this line, to insert "Section 1 of".

The Senate Floor Amendment No. 2 Title to **HB 382** is as follows:

by amending the title to read as follows: "AN ACT relating to economic development."

Representative Geveden moved that the House concur in Senate Floor Amendment No. 1 to **HB 382**. Agreed.

Representative Geveden moved that **HB 382**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 24, 1998 roll call on **HB 382** - Appendix.) **HB 382**, as amended by the Senate, was passed. Representative Geveden moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 382**. Agreed; and the title was agreed to. Representative Geveden moved that the vote by which **HB 382**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 410** is as follows:

AN ACT relating to warranties for new assistive devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act, unless the context indicates otherwise:

(1) "Individual with disabilities" means any individual who is considered to have a mental or physical disability, impairment, or handicap for purposes of any other law of this state or of the United States, including any rules or regulations thereunder.

(2) "Assistive device" means any item, device, piece of equipment, or product system or component thereof, including a demonstrator, that is designed and used to increase, maintain, or improve functional capabilities of individuals with disabilities in the areas of seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, or working. The term includes, but is not limited to:

(a) Manual wheelchairs;

(b) Motorized wheelchairs;

(c) Motorized scooters;

(d) Other aids that enhance the mobility of an individual;

(e) Hearing aids;

(f) Assistive listening devices;

(g) Other aids that enhance an individual's ability to hear or communicate;

(h) Voice-synthesized computer modules;

(i) Optical scanners;

(j) Talking software;

(k) Braille printers;

(l) Large print materials;

(m) Other devices that enhance an individual's ability to access print or communicate;

(n) Other devices such as environmental controls;

(o) Adaptive transportation aids;

(p) Communication boards; and

(q) Modified environments.

(3) "Assistive device dealer" means a person who is in the business of selling new assistive devices.

(4) "Assistive device lessor" means a person who leases new assistive devices to consumers, or who holds the lessor's rights, under a written lease.

(5) "Collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the cost of sales tax and of obtaining an alternative assistive device.

(6) "Consumer" means any person, including a public agency or other private organization, who acquires an assistive device on behalf of or for the benefit of an individual with a disability who:

(a) Purchases an assistive device from an assistive device manufacturer, its agent, or authorized dealer for purposes other than resale;

(b) Obtains or otherwise receives an assistive device for purposes other than resale, provided the transfer occurs before the expiration of an express warranty applicable to the assistive device;

(c) Possesses the right to enforce the express warranty; or

(d) Leases an assistive device from an authorized assistive device lessor under a written lease.

(7) "Demonstrator" means an assistive device used primarily for the purpose of demonstration to the public.

(8) "Early termination cost" means an expense or obligation that an assistive device lessor incurs as a result of both the termination of a written lease before the termination date set forth in that lease, and the return of an assistive device to the manufacturer. The term includes any penalty for prepayment under a finance arrangement.

(9) "Early termination savings" means an expense or obligation that an assistive device lessor avoids as a result of both the termination of a written lease before the termination date set forth in that lease and the return of an assistive device to the manufacturer. The term includes an interest charge that the assistive device lessor would have paid to finance the assistive device or, if the assistive device lessor does not finance the assistive device, the difference between the total period of the lease remaining after the early termination and the present value of that amount at the date of the early termination.

(10) "Manufacturer" means a person who manufactures or assembles assistive devices including agents of that person, an importer, a distributor, a factory branch, distributor branch, and any warrantors of the manufacturer's assistive device, but does not include an assistive device dealer or an assistive device lessor.

(11) "Nonconformity" means a specific condition or generic defect or malfunction, or a defect or condition of a component of the assistive device that substantially impairs the use, value, or safety of an assistive device, and that is covered by an express warranty applicable to the assistive device or to a component of the assistive device, but does not include:

(a) A condition of the device that is the result of abuse, neglect, unauthorized modification, or alteration of the assistive device by the consumer.

(b) A condition of the device that is the result of normal use which may be resolved through a fitting or other routine adjustment, proper preventative maintenance, or care in accordance with written instructions provided with the assistive device.

(12) "Reasonable attempt to repair" means any of the following occurring within the term of an express warranty applicable to a new assistive device:

(a) The new assistive device has been subject to repair two (2) or more times, for the same nonconformity, by the manufacturer, its agent, or authorized assistive device dealer or lessor, and the nonconformity continues; or

(b) The assistive device is out of service for an aggregate of at least thirty (30) cumulative calendar days because of warranty nonconformities. The thirty (30) days shall begin upon the day the consumer first makes the assistive device available for repair to the manufacturer, its agent, or authorized dealer or lessor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) A manufacturer who sells or leases a new assistive device to a consumer, either directly or through an assistive device dealer or lessor, shall expressly warrant that the assistive device shall be free of any condition, defect, or malfunction which substantially impairs the use, value, or safety of the assistive device for a period of one (1) year after first possession of the assistive device by the consumer.

(2) If a manufacturer fails to furnish an express warranty as required by this section, the assistive device shall be covered by an express warranty as if the manufacturer had furnished an express warranty to the consumer as required by this section.

(3) Nothing in Sections 1 to 8 of this Act shall limit the ability of the manufacturer or any dealer or lessor from providing additional warranties on assistive devices nor limit or affect any other warranties applicable to assistive devices, whether implied or expressed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

If a new assistive device does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, its agent, or authorized dealer or lessor within one (1) year after first possession of the assistive device by the consumer, the manufacturer, its agent, or authorized dealer or lessor shall make repairs necessary to conform the assistive device to the warranty, whether or not the repairs are made after one (1) year from the date of first possession of the assistive device by the consumer. Repairs made under warranty shall be made at no charge to the consumer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer shall carry out, at the option of the consumer, the requirements under paragraph (a) or (b) of this subsection.

(a) To provide for refunds, at the request of the consumer, the manufacturer shall do one (1) of the following:

1. Accept return of the assistive device and refund to the consumer and to any holder of a perfected security interest in the consumer's assistive device, as the interest may appear, the full purchase price including any finance charge paid by the consumer at the point of sale, plus collateral costs, less a reasonable allowance for use, except that in the case of hearing aids, the manufacturer's invoice price shall be refunded; or

2. Accept return of the assistive device, refund to the assistive device lessor and to any holder of a perfected security interest in the assistive device, as the interest may appear, the current value of the written lease and refund to the consumer the amount that the consumer paid under the written lease plus collateral costs, less a reasonable allowance for use.

(b) To receive a comparable new assistive device to that having the nonconformity or a refund, the consumer shall offer to transfer possession of the nonconforming assistive device to its manufacturer. No later than thirty (30) days after that offer, the manufacturer shall provide the consumer with the comparable assistive device or a refund. When the manufacturer provides the comparable new assistive device or the refund, the consumer shall return the assistive device having the nonconformity to the manufacturer, along with any endorsements necessary to transfer legal possession to the manufacturer.

(2) If, after a reasonable attempt to repair, the nonconformity is not repaired, an assistive device lessor shall receive a refund from the manufacturer. To receive a refund, the assistive device lessor shall offer to transfer possession of a nonconforming assistive device to its manufacturer. No later than thirty (30) days after that offer, the manufacturer shall provide the refund to the assistive device lessor. When the manufacturer provides the refund, the assistive device lessor shall provide to the manufacturer any endorsements necessary to transfer legal possession to the manufacturer.

(3) Under this section, the current value of the written lease equals the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the assistive device dealer's early termination costs and the value of the assistive device at the lease expiration date, if the lease sets forth that value, less the assistive device lessor's early termination savings.

(4) Under this section, a reasonable allowance for use may not exceed the amount obtained by multiplying the total amount paid by the consumer under a purchase or for which the consumer is obligated under a written lease by a fraction, the denominator of which is one thousand eight hundred twenty-five (1,825), which is the number of days in a five (5) year period, and the numerator of which is the number of days that the consumer used the assistive device before first reporting the nonconformity to the manufacturer, assistive device lessor, or assistive device dealer.

(5) No person may enforce the lease against the consumer after the consumer receives a refund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

No assistive device returned by a consumer or assistive device lessor in this state or returned in another state as a result of a nonconformity to a warranty may be sold or leased in this state unless full disclosure of the reason for return is made to a prospective buyer or lessee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) Whenever an assistive device covered by a manufacturer's express warranty is tendered by a consumer to the dealer from whom it was purchased or exchanged for the repair of a defect, malfunction, or nonconformity to which the warranty is applicable, and at least one (1) of the following conditions exists, the manufacturer shall provide directly to the consumer for the duration of the repair period, a comparable replacement assistive device or a rental assistive device reimbursement to pay for the cost incurred by the consumer for renting a comparable replacement assistive device. The applicable conditions are as follows:

(a) The repair period exceeds ten (10) working days, including the day on which the device is tendered to the dealer for repair; or

(b) The defect, malfunction, or nonconformity is the same one for which the assistive device has been tendered to the dealer for repair on at least two (2) previous occasions.

(2) This section applies for the period of the manufacturer's express warranty or the period prescribed in subsection (2) of Section 2, whichever is greater, whether or not the repairs extend beyond that period.

SECTION 7. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) In addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of Sections 1 to 8 of this Act in a court of appropriate jurisdiction in the county where the consumer resides or where the manufacturer resides or has its principal place of business. The court shall award a consumer who prevails in such an action the amount of any pecuniary loss, together with costs, disbursements, and reasonable attorney's fees, and any equitable relief the court determines is appropriate.

(2) Sections 1 to 8 of this Act shall not be construed to limit rights or remedies available to the consumer under any other law, and the remedies provided under Sections 1 to 8 of this Act are inclusive and in addition to any other remedies provided by law.

(3) Any agreement entered into by a consumer which waives, limits, or disclaims the rights set forth in Sections 1 to 8 of this Act shall be void as contrary to public policy.

SECTION 8. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 8 of this Act may be cited as the "Kentucky New Assistive Device Warranty Act."

Representative Johns moved that the House concur in Senate Committee Substitute to **HB 410**. Agreed.

Representative Johns moved that **HB 410**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 5 (See March 24, 1998 roll call on **HB 410** - Appendix.) **HB 410**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Johns moved that the vote by which **HB 410**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 453, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 453** is as follows:

AN ACT relating to emergency management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly realizes the Commonwealth is subject at all times to disaster or emergency occurrences which can range from crises affecting limited areas to widespread catastrophic events, and that response to these occurrences is a fundamental responsibility of elected government in the Commonwealth. It is the intent of the General Assembly to establish and to support a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system, in order to provide for adequate assessment and mitigation of, preparation for, response to, and recovery from, the threats to public safety and the harmful effects or destruction resulting from all major hazards, including but not limited to: flood, flash flood, tornado, blizzard, ice storm, snow storm, wind storm, hail storm, or other severe storms; drought, extremes of temperature, earthquake, landslides, or other natural hazards; fire, forest fire or other conflagration; enemy attack, threats to public safety and health involving nuclear, chemical, or biological agents or weapons; sabotage, riot, civil disorder or acts of terrorism, and other domestic or national security emergencies; explosion, power failure or energy shortages, major utility system failure, dam failure, building collapse, other infrastructure failures, transportation-related emergencies on, over, or through the highways, railways, air, land, and waters in the Commonwealth, emergencies caused by spill or release of hazardous materials or substances, mass-casualty or mass-fatality emergencies; other technological, biological, etiological, radiological, environmental, industrial, or agricultural hazards; or other disaster or emergency occurrences; or catastrophe; or other causes; and the potential, threatened, or impending occurrence of any of these events; and in order to protect life and property of the people of the Commonwealth, and to protect public peace, health, safety, and welfare, and the environment; and in order to ensure the continuity and effectiveness of government in time of emergency, disaster, or catastrophe in the Commonwealth, it is hereby declared to be necessary:

(1) To create a Division of Emergency Management as the emergency management agency of state government and to authorize the creation of local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth;

(2) To confer upon the Governor, the county judge/executives of the counties, the mayors of the cities and urban-county governments of the Commonwealth, and the chief executive of other local governments the emergency powers

provided in KRS Chapters 39A to 39F;

(3) To establish provisions for mutual aid among the cities, counties, and urban-county or charter county governments of the Commonwealth, with other states, and with the federal government with respect to the performance of disaster and emergency preparedness, response, recovery, and mitigation functions; and

(4) To authorize the establishment of a statewide comprehensive emergency management program and integrated emergency management system, the promulgation of orders or administrative regulations, and the taking of other steps necessary and appropriate to carry out the provisions of KRS Chapters 39A to 39F.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

(1) "Adjutant General" means the executive head of the Department of Military Affairs vested with general direction and control authority for the department and the division of emergency management;

(2) "Catastrophe" means a disaster or series of concurrent disasters which adversely affect the entire Commonwealth of Kentucky or a major geographical portion thereof;

(3) "Comprehensive emergency management program" means the public safety program developed, organized, implemented, administered, maintained, and coordinated by the Division of Emergency Management and local emergency management agencies created pursuant to the provisions of KRS Chapters 39A to 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency, declared emergency, disaster, or catastrophe, or threat of any of those, as contemplated in Section 1 of this Act or as defined in this section;

(4) "Coordination" means having and exercising primary state or local executive branch oversight for the purpose of organizing, planning, and implementing;

(5) "Declared emergency" means any incident or situation declared to be an emergency by executive order of the Governor, or a county judge/executive, or a mayor, or the chief executive of other local governments in the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;

(6) "Director" means the director of the Division of Emergency Management of the Department of Military Affairs;

(7) "Disaster" means any incident or situation declared as such by executive order of the Governor, or the President of the United States, pursuant to federal law;

(8) "Disaster and emergency response" means the performance of all emergency functions, other than war-related functions for which military forces are primarily responsible, including, but not limited to: direction and control, incident command or management; communications; fire protection services; police services; medical and health services; ambulance services; rescue; search and rescue or recovery; urban search and rescue; engineering; alerting and warning services; resource management; public works services; nuclear, chemical, biological, or other hazardous material or substance monitoring, containment, decontamination, neutralization, and disposal; emergency worker protection, site safety, site operations and response planning; evacuation of persons; emergency welfare services; emergency transportation; physical plant protection; temporary restoration of public utility services; emergency lighting and power services; emergency public information; incident investigation, hazards analysis, and damage assessment; and other functions related to effective reaction to a disaster or emergency or catastrophe, or the potential, threatened, or impending threat of any disaster or emergency or catastrophe, together with all other activities necessary or incidental to the preparation for and carrying out of the functions set out in this subsection;

(9) "Division" means the Division of Emergency Management of the Department of Military Affairs;

(10) "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities;

(11) "Integrated emergency management system" means the unified and multi-disciplinary disaster and emergency response infrastructure developed in the Commonwealth, under the coordination of the division, using methods which align state or local administrative, organizational, and operational resources, to accomplish the mission, goals, and objectives of the comprehensive emergency management program of the Commonwealth;

(12) "Local disaster and emergency services organization" means that organization of public and private entities developed to carry out the multi-agency disaster and emergency response of a city, county, urban-county or charter county pursuant to KRS Chapters 39A to 39F;

(13) "Local emergency management agency" means the agency created, operated, and maintained to coordinate the local comprehensive emergency management program and disaster and emergency response of a city, county, and urban-county or charter county government pursuant to KRS Chapters 39A to 39F;

(14) "Local emergency management director" or "Local director" means the executive head of the local emergency

management agency, appointed pursuant to the provisions of KRS Chapters 39A to 39F;

(15) "State emergency management agency" means the Division of Emergency Management of the Department of Military Affairs; and

(16) "State emergency management director" means the director of the Division of Emergency Management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The General Assembly recognizes that the rationale and purpose of the comprehensive emergency management program of the Commonwealth has evolved from a program for response to threats to national security, enemy attack, and other national defense needs, to a program for response to all hazards, but primarily, domestic hazards and threats including natural, man-made, technological, industrial, or environmental emergencies or disasters, for which civil government is primarily responsible. Because of major changes in the rationale and necessity for emergency management capabilities, as well as the urgent requirement for multi-agency participation and inter-agency coordination to ensure timely, effective, and appropriate disaster and emergency response in the Commonwealth, and to otherwise modernize and improve the administration, effectiveness, and relevance of the comprehensive emergency management program for the contemporary needs of the citizens of the Commonwealth, the General Assembly declares:

(1) A Division of Emergency Management is hereby created as the emergency management agency of state government which shall develop the comprehensive emergency management program of the Commonwealth on behalf of the Governor, and in consultation with the cabinet secretaries of state government, other appropriate state agency heads, local elected chief executives, local emergency management directors, and local emergency planning committees, for the purpose of developing and enhancing comprehensive emergency management program policies, plans, or procedures to provide for a coordinated responsive, and integrated emergency management system in the Commonwealth;

(2) The division may accept on behalf of the Commonwealth any grant, contribution, or fund, federal or otherwise, made to assist in meeting the costs of carrying out the provisions and purposes of KRS Chapters 39A to 39F, and fully comply with all funding requirements imposed by the receipt and use of the grant, contribution, or fund; and

(3) The term "Division of Emergency Management" shall constitute and designate the official name of the emergency management agency of state government created pursuant to subsection (1) of this section and "Division of Emergency Management", in the exact order or form as specified in this subsection, shall not be utilized by or assigned to any other agency of state or local government, or other state or local entity, or any political subdivision of the Commonwealth to constitute or designate the official name of any such agency, entity, or political subdivision.

SECTION 4. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The following administrative bodies shall be attached to the division for administrative purposes:

(1) Governor's Earthquake Hazards and Safety Technical Advisory Panel; and

(2) Kentucky Emergency Response Commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Division of Emergency Management shall coordinate for the Governor all matters pertaining to the comprehensive emergency management program and disaster and emergency response of the Commonwealth. The division shall be the executive branch agency of state government having primary jurisdiction, responsibility, and authority for the planning and execution of disaster and emergency assessment, mitigation, preparedness, response, and recovery for the Commonwealth; the coordination of all disaster and emergency response by and between all state agencies, all agencies of city, county, and urban-county or charter county government, all local entities, and all political subdivisions of the Commonwealth for an emergency, declared emergency, disaster, or catastrophe as contemplated in Section 1, 2, or 3 of this Act; the coordination of, and liaison with, related or concerned federal government agencies, elected officials of other states, private organizations or private sector companies dealing with disaster and emergency response; the coordination of all recovery operations and mitigation initiatives subsequent to disasters or emergencies; and the coordination of all public information activities regarding state government disaster and emergency response operations.

(2) The Division of Emergency Management shall have and exercise the following powers, authorities, and duties:

(a) To develop, administer, and maintain a statewide comprehensive emergency management program for the Commonwealth, and through it an integrated emergency management system for the disaster and emergency response of the Commonwealth, which shall be coordinated with the emergency management programs, and other related public safety, emergency response, mitigation, or disaster recovery programs, of all appropriate federal government agencies including the Federal Emergency Management Agency, the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, the Department of Defense, the National Oceanic and Atmospheric Administration, the Department of Justice, the Bureau of Alcohol, Tobacco, and Firearms, the National Transportation Safety Board, the

Chemical Safety and Hazard Investigation Board, the Army Corps of Engineers, the National Security Council, the Department of Health and Human Services, the Federal Railroad Administration, the U.S. Geological Survey, the Department of Energy, the Nuclear Regulatory Commission, the Department of Agriculture, the Department of Housing and Urban Development, the American Red Cross, the other states, and other appropriate public or private agencies, to the fullest appropriate extent;

(b) To coordinate the development, implementation, and maintenance of comprehensive emergency management programs by local emergency management agencies in the cities, counties, and urban-county or charter county governments of the Commonwealth to ensure that all such programs, agencies, and organizations are organized, administered, and operated as functional components of the integrated emergency management system of the Commonwealth;

(c) To develop and maintain a comprehensive, risk-based, all-hazards disaster and emergency response plan entitled "Kentucky Emergency Operations Plan," the provisions of which shall establish the organizational structure to be utilized by state government for managing disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination and execution of all disaster and emergency response for an emergency, declared emergency, disaster, or catastrophe in the Commonwealth. The Kentucky Emergency Operations Plan shall be submitted to the Governor for approval when the Governor assumes office following each gubernatorial election, or at other times as the director deems appropriate. The Governor shall provide written approval of the Kentucky Emergency Operations Plan through issuance of an executive order and the division shall file a copy of the executive order with the Legislative Research Commission. The Kentucky Emergency Operations Plan shall be the primary strategic disaster and emergency response planning component of the integrated emergency management system of the Commonwealth, and shall be utilized and followed by all state agencies, all local government agencies, all local public agencies or entities, and all other political subdivisions of the Commonwealth which may be involved in disaster and emergency response in the Commonwealth. The Kentucky Emergency Operations Plan shall be updated by the division not less than annually;

(d) To maintain and operate the State Emergency Operations Center facility, which shall be the official and primary state government twenty-four (24) hour warning point, communications, and command center, from which the Governor, cabinet secretaries, department heads, and other state agency officials can, at any time, rapidly, adequately, and effectively manage the disaster and emergency response of the Commonwealth. The State Emergency Operations Center facility shall be the primary state direction and control component of the integrated emergency management system of the Commonwealth for the coordination of all disaster and emergency response in the Commonwealth;

(e) To develop, monitor, and operate, on a twenty-four (24) hour per day basis, the appropriate alerting or warning systems, public safety telecommunications systems or radio networks, any state trunked, fiber, or interactive communication systems, computer, fax, other telecommunications or information networks and systems needed for communication and coordination with all necessary or appropriate federal, state, or local public safety, law enforcement, emergency management, or other disaster and emergency response agencies, and state or local dispatch centers in the Commonwealth, and other appropriate interests, and through these agencies and systems to receive or disseminate emergency information, or to receive timely notification of, and continual assessment of, all threatened or actual emergency incidents or disaster situations occurring anywhere in or near the Commonwealth;

(f) To immediately notify the Governor and the Adjutant General, in the event of any major emergency incidents or disaster occurrences, or the threatened or impending occurrence of any of these events, and to keep the Governor and the Adjutant General informed of all actions being taken in response to these events;

(g) To respond to the scenes of emergencies or disasters, or their threatened or impending occurrence and to directly and immediately investigate, analyze, and assess the nature and seriousness of these situations; to convene meetings, gather information, conduct briefings, and evaluate on-going emergency response activities; take actions to execute the appropriate provisions of the Kentucky Emergency Operations Plan; coordinate the establishment and operation of a state incident management system; establish or manage sub-state or area emergency operations centers, or on-scene command posts; and fully expedite and coordinate the disaster and emergency response of the Commonwealth;

(h) To establish and operate area field offices of the division, each office to be headed by an area manager, responsible for administering the policies, plans, programs, and duties of the division in specific geographic areas of the Commonwealth, including the coordination of comprehensive emergency management programs developed by the cities, counties, urban-county, or charter county governments in the areas;

(i) To provide funds to the cities, counties, and urban-county or charter county governments of the Commonwealth to support the development, administration, operation, and maintenance of local emergency management agencies created pursuant to KRS Chapters 39A to 39F;

(j) To require the regular submission of program administration data, records, materials, reports, or documents from

local emergency management agencies as may be necessary and sufficient to conduct performance reviews and assessments to ensure compliance with all state or federal funding and program requirements, and to ensure local program compatibility and consistency with the mission, goals, and objectives of the comprehensive emergency management program and integrated emergency management system of the Commonwealth;

(k) To ascertain the requirements of the Commonwealth and its cities and counties for emergency resources and the necessities of life in the event of disaster or emergency; institute an emergency resource management plan and procure emergency supplies, materials, and equipment; and use or employ in time of emergency any of the property, services, and resources of state or local government in the Commonwealth, for the purposes set forth in KRS Chapters 39A to 39F;

(l) To institute public information and education programs, emergency management training programs, and exercise programs to test and evaluate emergency operations plans and disaster and emergency response and recovery capabilities; and

(m) To promulgate administrative regulations to carry out the provisions of KRS Chapters 39A to 39F.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The General Assembly recognizes that the nature and scope of the activities necessary to develop and to administer a statewide comprehensive emergency management program, together with an integrated emergency management system requires the full support, cooperation, and active participation of all cabinets, departments, divisions, offices, or agencies of state government, local elected officials, local public agencies or entities, special districts, political subdivisions of the Commonwealth, volunteer organizations, individual citizens, and the private sector in this Commonwealth. To provide effective executive leadership for a program area of such broad scope and to ensure the professional administration of the comprehensive emergency management program and integrated emergency management system of the Commonwealth, the General Assembly declares:

(1) The Division of Emergency Management shall be headed by a director recommended by the Adjutant General and appointed by the Governor; and

(2) The director shall have the powers, rights, responsibilities, and authorities, as provided in KRS Chapters 39A to 39F, or other laws, and shall carry out all duties under the general direction of the Adjutant General of the Department of Military Affairs.

SECTION 7. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The director, with the approval of the Adjutant General, shall exercise the following powers, responsibilities, and duties:

(1) To represent the Governor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the Commonwealth;

(2) To coordinate the development of a statewide comprehensive emergency management program, and through it, an integrated emergency management system for the disaster and emergency response of the Commonwealth;

(3) To promulgate administrative regulations and issue orders, directives, standards, rules, procedures, guidance, or recommended practices necessary to coordinate the development, administration, organization, operation, implementation, and maintenance of the statewide comprehensive emergency management program and the integrated emergency management system of the Commonwealth;

(4) To coordinate the development of comprehensive emergency management programs by the cities, counties, and urban-county or charter county governments as functional components of the integrated emergency management system of the Commonwealth;

(5) To supervise the development and maintenance of the Kentucky Emergency Operations Plan, and to review and give concurrence to local emergency operations plans required pursuant to KRS Chapters 39A to 39F;

(6) To coordinate the comprehensive emergency management program of the Commonwealth with the emergency management or other emergency response-related programs of the federal government, and of other states, to the fullest appropriate extent;

(7) To advise the Governor and the Adjutant General immediately of the occurrence or threatened or impending occurrence of any disaster or emergency, and to recommend to the Governor any emergency actions, written orders, emergency powers, or executive orders that the Governor should execute;

(8) To serve as the Governor's primary liaison with local officials in the event of the occurrence, or threatened or impending occurrence, of any disaster or emergency in the cities, counties, urban-counties, or charter counties of the Commonwealth;

(9) To take any other preparedness or response actions deemed necessary for adequate response to a disaster or emergency situation to include: requesting increased readiness activities by state or local agencies in advance of an actual disaster or emergency; requesting implementation of local emergency operations plans or the activation of

local emergency operations centers; requesting reports from state or local agencies regarding emergency situations, damage assessments, or the taking of emergency response actions; and requesting the mobilization or deployment of any trained and equipped forces of state or local government for the disaster and emergency response purposes set forth in KRS Chapters 39A to 39F;

(10) To request and utilize the personnel, equipment, services, and facilities of existing officers and agencies of the Commonwealth and of all political subdivisions and special districts. All these officers and agencies shall fully cooperate with and extend their resources to the director as requested to the extent that local public safety is not unreasonably compromised;

(11) To employ measures and give directions to the state or local boards of health as necessary for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or with the findings or recommendations of the boards of health, because of conditions arising from disasters, emergency situations, national security emergencies, or the threat thereof;

(12) To request and utilize the services of state and local law enforcement officers for the purpose of securing compliance with the provisions of KRS Chapters 39A to 39F, or any order of the Governor pertaining to disaster and emergency response;

(13) On behalf of this Commonwealth, with the approval of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide, local, county, or city basis, or with other states or a province of a foreign country. The mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; national guard personnel and resources while under the control of the state; health, medical, and related services; firefighting; rescue; search and rescue or recovery; urban search and rescue; hazardous materials response services, transportation and construction services and equipment; personnel necessary to provide or conduct these services and other supplies, equipment, facilities, personnel, and services as needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, search and rescue and police units and health units; and on the terms and conditions deemed necessary;

(14) To sponsor and develop mutual aid plans and agreements among the urban-county or charter county governments, counties, cities, and other political subdivisions and special districts of the Commonwealth, similar to the mutual aid arrangements with other states referred to in subsection (13) of this section;

(15) To procure motor vehicles, radio, and telecommunications equipment, protective clothing, safety equipment, and other necessary supplies and materials to meet the emergency response, operational, and administrative needs of the division;

(16) To identify deficiencies existing in the emergency management program organization, facilities, and capabilities of the Commonwealth, including but not limited to: personnel and administrative resources; state, sub-state, area, or local emergency operations centers; mobile command posts; emergency telecommunications and computer systems; alerting and warning systems; stockpiles of critical resources; or any other necessary elements, and to recommend to the Adjutant General, for consideration by the Governor or the General Assembly or other appropriate funding authority, the administrative or operational funding requirements, and long range capital construction or improvement projects, needed to meet the emergency management infrastructure needs of the Commonwealth;

(17) To serve as the state coordinating officer and notify the Governor of the appropriations necessary to fund the expected emergency operational or response costs of the division, and the Commonwealth's share of the grants provided by PL 93-288, Title V, Federal Disaster Assistance Programs as amended by PL 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or successor Acts or Titles, and further, take action necessary to ensure entitlement to all other federal relief or assistance programs;

(18) To cooperate with the President of the United States, the Federal Emergency Management Agency, and other appropriate federal offices and agencies, and the offices and agencies of other states in matters pertaining to the comprehensive emergency management program of the Commonwealth and nation; and in connection with these, to take any measures considered necessary to implement any request of the President and the appropriate federal offices and agencies, for any action requiring effective disaster and emergency response, including the direction or control and mobilization of disaster and emergency response forces; tests and exercises, warnings, and signals for drills or other emergency response activities and the mechanical devices to be used in connection with these; the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to a drill, emergency, declared emergency or disaster; public meetings or gatherings; and the evacuation and sheltering of the civilian population; and

(19) To delegate any authority vested in the director under KRS Chapters 39A to 39F and to provide for the subdelegation

of any such authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The Governor may make, amend, and rescind any executive orders as deemed necessary to carry out the provisions of KRS Chapters 39A to 39F.

SECTION 9. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by Section 1, 2, or 3 of this Act, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:

(a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;

(b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;

(c) To seize, take, or condemn property for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:

1. All means of transportation and communication;

2. All stocks of fuel of whatever nature;

3. Food, clothing, equipment, materials, medicines, and all supplies; and

4. Facilities, including buildings and plants;

(d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;

(e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;

(f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;

(g) To declare curfews and establish their limits;

(h) To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;

(i) To perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population; and

(j) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth.

(2) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by Section 1, 2, or 3 of this Act, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

(a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;

(b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;

(c) To declare curfews and establish their limits;

(d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services; and

(e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.

SECTION 10. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

If property is taken for temporary use, pursuant to the provisions of this chapter, the Governor shall, within thirty (30) days of the taking, fix the amount of compensation to be paid for the property. If the property is returned to the owner in a damaged condition or is not returned to the owner, the Governor shall, within thirty (30) days after the taking, fix the amount of compensation to be paid for the damage or failure to return. When the Governor deems it advisable for the state to take title to property taken under this section, the owner shall be notified in writing by certified mail, return receipt requested, and a copy of the notice shall be filed with the Secretary of State.

SECTION 11. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

If the owner of any property seized, taken, or condemned pursuant to Section 10 of this Act refuses to accept as adequate the compensation fixed by the Governor, the owner may present a claim to the Board of Claims, which shall hear and determine it according to the provisions of KRS Chapter 44 and the administrative regulations of the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The owner of property seized, taken, or condemned may appeal from the award of the Board of Claims to the Circuit Court of the county of the owner's residence. The Rules of Civil Procedure shall, so far as applicable, govern the procedure on appeal. A trial de novo shall not be allowed unless the record on appeal is not sufficient to determine the matter from the record, but if the action is tried it shall be tried according to the practice prescribed for the trial of jury cases.

(2) An appeal from the judgment of Circuit Court may be taken to the Court of Appeals.

SECTION 13. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) If the owner of property seized, taken, or condemned accepts as adequate the compensation fixed by the Governor, the owner shall file a statement of the amount of compensation from the Governor with the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer for the amount of the compensation in favor of the person entitled to payment.

(2) If the compensation is determined by award of the Board of Claims or judgment of a court, as provided in Sections 10, 11, and 12 of this Act, a certified copy of the award or judgment shall be filed with the Finance and Administration Cabinet which shall draw a warrant on the State Treasurer for the amount of the award or judgment.

(3) The State Treasurer shall pay the warrants out of any money in the Treasury not otherwise appropriated.

SECTION 14. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Emergency Operations Plan and local emergency operations plans shall include measures for, and the Governor for the state or portion thereof, the county judge/executive for a county other than an urban-county, or a portion thereof, and the mayor for a city or an urban-county or portion thereof, may issue written executive orders providing for:

  (a) The control of traffic in order to provide for rapid and safe movement in evacuation over public highways and streets during any disaster or emergency;

  (b) The control and alteration of speed limits and traffic regulations on public highways during any disaster or emergency; and

  (c) The prohibition or limitation of use of motor vehicles on public highways during any disaster or emergency.

(2) The Governor may extend the provisions of subsection (1) of this section to the public thoroughfares of any political subdivision of the Commonwealth.

(3) The Governor may order agencies of state government and political subdivisions of the Commonwealth to take steps necessary to effectuate plans made or orders issued pursuant to this section.

(4) During a declared emergency or disaster, the Governor, county judge/executive, or mayor, may, for their respective jurisdictions, place these plans in effect.

SECTION 15. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

For the purpose of making surveys and investigations and obtaining information which may be necessary to the operation or enforcement of KRS Chapters 39A to 39F, the Governor, or the director with the written approval of the Governor, may compel by subpoena the attendance of witnesses, and the production of books, papers, records, and documents of *individuals, firms, associations, and corporations. All officers, boards, commissions, and divisions of the state, the political subdivisions thereof, and special districts, having information which is the subject of the investigation, shall cooperate with and assist the Governor or the director in making the investigation and surveys.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any inconsistent provision of law, the Governor may, when it is found to be in the public interest:

(a) Authorize any division or agency of the state to lease or lend, on such terms and conditions as deemed necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the President of the United States, the chiefs of the Armed Forces, or to the Federal Emergency Management Agency;

(b) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state on such terms and conditions as may be deemed necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state; and

(c) Permit state employees to engage in disaster and emergency response activities, within or without the state, for the division, or for a local jurisdiction upon request of a local emergency management agency to the division. State employees assigned to or volunteering for this duty shall be considered as being employed by the agency by which they are regularly employed and shall continue to receive salary and benefits while engaging in disaster and emergency response work.

(2) The permission of the Governor for the use of state employees in the manner specified in subsection (1)(c) of this section shall be presumed, and shall be automatic unless the Governor specifies otherwise with regard to the use of a specific employee or employees.

(3) The Chief Justice for the Court of Justice and the Director of the Legislative Research Commission, with regard to employees of their respective branches of government, may permit Court of Justice and legislative employees to engage in disaster and emergency services work under the same terms and conditions as specified in subsections (1) and (2) of this section.

SECTION 17. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The political subdivisions of the state and other agencies designated or appointed by the Governor may make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes, and to supplement the carrying out of the provisions of this chapter, if not inconsistent with any orders or administrative regulations promulgated by the Governor or by any state agency exercising a power delegated to it by the Governor.

(2) All written orders and administrative regulations promulgated by the Governor, the director, or by any political subdivision or other agency authorized by KRS Chapters 39A to 39F to make orders and promulgate administrative regulations, shall have the full force of law, when, if issued by the Governor, the director, or any state agency, a copy is filed with the Legislative Research Commission, or, if promulgated by an agency or political subdivision of the state, when filed in the office of the clerk of that political subdivision or agency. All existing laws, ordinances, and administrative regulations inconsistent with the provisions of KRS Chapters 39A to 39F, or of any order or administrative regulation issued under the authority of KRS Chapters 39A to 39F, shall be suspended during the period of time and to the extent that the conflict exists.

(3) The law enforcement authorities of the state and of its counties, urban-counties, charter counties, and cities shall enforce the written orders and administrative regulations issued pursuant to KRS Chapters 39A to 39F.

SECTION 18. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

A peace officer, when in full and distinctive uniform or displaying a badge or other insignia of authority, may arrest without a warrant any person violating or attempting to violate in the officer's presence any order or administrative regulation made pursuant to this chapter, or KRS Chapter 39B, 39C, 39D, 39E, or 39F.

SECTION 19. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

When the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of disaster and emergency response, the state, acting through the Governor, or the political subdivision, acting through its chief executive or governing body, may accept the offer and upon acceptance the Governor of the state or chief executive or governing body of the political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or funds on behalf of the state or the political subdivision, and subject to the terms of the offer.

SECTION 20. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

No person shall be employed or associated in any capacity in any disaster and emergency response organization established *under this chapter who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for disaster and emergency response shall, before entering upon his or her duties, take an oath, in writing, before a person authorized to administer oaths in this Commonwealth, which shall be as follows:*

> *"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this Commonwealth and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of emergency management director according to law;*
>
> *And I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this state, have not fought a duel with deadly weapons within this state, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offended, so help me God."*

SECTION 21. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) Each agency, board, or commission of state government, unless the requirement is waived, in writing, by the director, shall develop agency emergency operations procedures which are consistent with and which meet the requirements of the Kentucky Emergency Operations Plan. The agency emergency operations procedures shall be updated not less than yearly.

(2) Each agency, board, or commission of state government shall take those measures necessary to ensure that it can continue to operate during times of disaster or emergency, that it can protect its vital records, and that it has designated at least four (4) persons, preferably by title, who may act for the agency, and for its major component operations, during an emergency or disaster if the primary person with the power to make necessary decisions is unavailable for any reason.

(3) In carrying out the provisions of subsections (1) and (2) of this section, each agency, board, or commission of state government shall follow the general planning guidance of the division and the requirements of administrative regulations promulgated by the division.

(4) Each agency, board, or commission of state government shall train its employees with regard to the contents of the agency emergency operations procedures, and shall give any additional training necessary to implement the procedures during times of emergency or disaster.

(5) Each agency, board, or commission of state government shall, upon request of the director, send an employee of the agency with full authority to take any action on behalf of the agency to the State Emergency Operations Center, area offices of the division, state command posts or other designated location during periods of emergency or disaster.

(6) As used in this section, agency, board, or commission means all agencies, unless the requirement is waived, in writing, by the director, listed in KRS 12.020, other state bodies created by executive order of the Governor, the Legislative Research Commission, and the Court of Justice and its agencies.

SECTION 22. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Emergency Operations Plan shall include procedures for one multi-risk, multi-agency, unified incident command or management system to be used by all state agencies responding to the scene of an emergency, declared emergency, disaster, or catastrophe, as contemplated by Section 1, 2, or 3 of this Act.

(2) Local emergency operations plans shall include procedures for:

- *(a) An incident command or management system to be used by individual local agencies or departments when responding to the scene of day-to-day, routine emergency incidents; and*
- *(b) One unified incident command or management system to be used by all local agencies or departments when responding to the scene of a multi-agency or multi-jurisdictional emergency, declared emergency, disaster, or catastrophe, as contemplated by Section 1, 2, or 3 of this Act.*

(3) All incident command or management system procedures required pursuant to subsections (1) or (2) of this section shall be based upon or utilize the five (5) functions of: command, operations, planning, logistics, and finance.

SECTION 23. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The division shall maintain the State Emergency Operations Center and those alternate locations deemed necessary, and shall activate the State Emergency Operations Center when deemed necessary by the director, the Adjutant General, or the Governor.

(2) Each cabinet of state government, and each independent agency of state government, and other organizations provided for in the Kentucky Emergency Operations Plan shall immediately send a designated person to the State Emergency Operations Center upon request of the director, during a time of emergency or disaster or the threatened

or impending happening of such an incident. They shall remain at the State Emergency Operations Center until relieved and replaced, unless released by the director.

(3) Persons representing agencies of state government or other organizations assigned to the State Emergency Operations Center during times of emergency or disaster or the threatened or impending happening thereof may obligate the funds, equipment, and personnel of the organization which they represent, and make decisions on behalf of the organization which they represent.

SECTION 24. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) Disaster and emergency response functions provided by a state or local emergency management agency, or any emergency management agency-supervised operating units or personnel officially affiliated with a local disaster and emergency services organization pursuant to Section 35 of this Act, shall not, in itself, be deemed to be the making of a promise, or the undertaking of a special duty, towards any person for the services, or any particular level of, or manner of providing, the services; nor shall the provision of or failure to provide these services be deemed to create a special relationship or duty towards any person upon which an action in negligence or other tort might be founded. Specifically:

(a) The failure to respond to a disaster or other emergency, or to undertake particular inspections or types of inspections, or to maintain any particular level of personnel, equipment, or facilities, shall not be a breach of any duty to persons affected by any disaster or other emergency.

(b) When a state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, does undertake to respond to a disaster or other emergency, the failure to provide the same level or manner of service, or equivalent availability or allocation of resources as may or could be provided, shall not be a breach of any duty to persons affected by that disaster or other emergency.

(c) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization shall not have or assume any duty towards any person to adopt, use, or avoid any particular strategy or tactic in responding to a disaster or other emergency.

(d) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, in undertaking disaster and emergency preparedness or prevention activities including inspections, or in undertaking to respond to a disaster or other emergency, shall not have voluntarily assumed any special duty with respect to any risks which were not created or caused by it, nor with respect to any risks which might have existed even in the absence of that activity or response, nor shall any person have a right to rely on such an assumption of duty.

(2) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any of its political subdivisions, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management agency member, or disaster and emergency services member, or disaster and emergency response worker, or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection. This immunity shall not affect the right of any person to receive benefits or compensation to which the person might otherwise be entitled under the Workers' Compensation Law, or this chapter, or any pension law, or any act of Congress.

(3) Neither the state nor any political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any of its political divisions, nor any volunteer or auxiliary emergency management agency or disaster and emergency services organization member or disaster and emergency response worker or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with this chapter or any order or administrative regulation promulgated pursuant to the provisions of this chapter, or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of that activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

(4) Decisions of the director, his subordinates or employees, a local emergency management director, or the local director's subordinates or employees, a rescue chief or the chief's subordinates, concerning the allocation and assignment of personnel and equipment, and the strategies and tactics used, shall be the exercise of a discretionary, policy function for which neither the officer nor the state, county, urban-county, charter county, or city, or local emergency management agency-supervised operating unit formally affiliated with a local disaster and emergency services organization, shall be held liable in the absence of malice or bad faith, even when those decisions are made rapidly in response to the exigencies of an emergency.

(5) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of the real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster or emergency, together with his or her successors in interest, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about the real estate or premises for loss of, or damage to, the property of that person. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

SECTION 25. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The division may enter into agreements with other states with regard to mutual aid for routine provision of emergency management services or for mutual aid during times of emergency or disaster, or any combination of these.

(2) Kentucky emergency management personnel, either working for the state or local government or affiliated with the state or a local government, paid or volunteer, shall, to the extent provided by the law of the host state, have the same rights and privileges as they have in Kentucky.

(3) Emergency management personnel, either working for the state or a local government or affiliated with the state or a local government of another state, paid or volunteer, shall, to the extent provided by Kentucky law, have the same rights and privileges as do Kentucky emergency management personnel working for the state or local government or affiliated with the state or a local government, whether paid or volunteer. This provision shall not apply to the provision of peace officer services, unless approved in writing by the Governor, or the General Assembly, as appropriate for the specific incident.

(4) Kentucky emergency management-provided workers' compensation shall apply to a state or local emergency management agency worker, paid or volunteer, or worker in an operating unit officially affiliated with the division, or worker in a local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization pursuant to Section 35 of this Act, who is serving in another state pursuant to an agreement consummated under this section.

(5) An emergency management worker from another state, paid or volunteer, who is working for or affiliated with the state emergency management agency and who is serving in Kentucky pursuant to an agreement consummated under this section may be accorded Kentucky emergency management workers' compensation coverage by action of the director.

(6) The provisions of subsections (4) and (5) of this section shall not apply to hazardous materials emergency response operations defined in 29 C.F.R. 1910.120 which are above the first-responder operations level, on-scene incident commander level excluded.

(7) An emergency management worker from another state, paid or volunteer, who is working for the state emergency management agency or a local emergency management agency or a worker in an organization affiliated with the state or local emergency management agency of another state who holds license or certification from the worker's state to practice a profession, or paraprofessional activity, or other activity for which a license or certification is required to practice that activity in Kentucky shall be, for the period of that work, under an agreement consummated pursuant to this chapter, considered as properly licensed or certified in Kentucky to perform the services granted by the worker's license or certification. The worker shall, however, while in Kentucky, be subject to discipline by the appropriate Kentucky licensing or certifying agency for acts of misconduct or negligence which are committed in Kentucky.

(8) City, county, urban-county, or charter county emergency management agencies in Kentucky may make written agreements with similar local emergency management agencies in adjoining states if the agreements are submitted to the state emergency management agencies of both states and are approved in writing by the directors of both agencies. Agreements pursuant to this section shall be subject to the same rights and privileges as state agreements under this section, but shall be limited to two (2) years, unless renewed by submission of a new agreement for

approval.

(9) The provisions of this section shall be subject to the provisions of all applicable federal law.

SECTION 26. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) During the threatened or impending happening of a disaster or emergency, the Governor, the Adjutant General, or the Director may authorize the use of public employees, equipment, supplies, materials, funds, or any other publicly owned or supported resources to assist in the mitigation of the potential effects of the disaster or emergency, regardless of whether the use is on public or private property.

(2) During the actual happening of and any part of the response phase of a disaster or emergency the Governor, the Adjutant General, or the Director, shall, when necessary or desirable, authorize the use of public employees, equipment, supplies, materials, funds, or any other publicly owned or supported resource to assist in the operations of government, or the private sector, necessary to deal with the disaster or emergency, regardless of whether the use is on public or private property.

(3) After the active or response phase of the disaster or emergency has passed and the recovery phase has begun, the Governor, the Adjutant General, or the Director may authorize the use of public employees, equipment, supplies, funds, or any other publicly owned or supported resources to assist in the recovery phase of the disaster or emergency, regardless of whether the use is on public or private property.

(4) A formal declaration of disaster or emergency shall not be necessary to invoke the provisions of subsection (1) or (2) of this section.

SECTION 27. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this chapter or any administrative regulation or order promulgated pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

SECTION 28. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

The definitions and other provisions of this chapter shall apply to this chapter and to KRS Chapters 39B, 39C, 39D, 39E, and 39F unless the language or context of a particular statute requires otherwise.

SECTION 29. KRS CHAPTER 39B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) Each city, county, urban-county or charter county government of this Commonwealth shall create, support, and maintain a local emergency management agency, which shall serve the public safety interest of the local government within the territorial boundaries of the city or county where the agency is created. Each local emergency management agency shall develop, implement, and maintain a local comprehensive emergency management program, including a local emergency operations plan, in accordance with the provisions of KRS Chapters 39A to 39F. The local emergency management agency shall be an integral component of the statewide integrated emergency management system of this Commonwealth, and shall fully comply with all applicable provisions of KRS Chapters 39A to 39F, the comprehensive emergency management program requirements of the Commonwealth, the provisions of the Kentucky Emergency Operations Plan, and all administrative regulations promulgated by the Division of Emergency Management.

(2) Each county government, and the urban-county, charter county, or city governments located within the territorial boundaries of a county, are encouraged to jointly create a single, unified local emergency management agency to serve all local governments collectively, and therefore may, in lieu of creating individual and separate local agencies, jointly create a single, unified local emergency management agency, provided the agency and its program:

- *(a) Fully comply with all the provisions of KRS Chapters 39A to 39F;*
- *(b) Comply with the Interlocal Cooperation Act or locally adopted memorandums of agreement, as necessary and appropriate; and*
- *(c) Are determined to be in compliance with all requirements of KRS Chapters 39A to 39F by the director of the Division of Emergency Management.*

(3) The local emergency management agency shall be an organizational unit of the executive branch of city, county, and urban-county or charter county government and shall have primary jurisdiction, responsibility, and authority for all matters pertaining to the local comprehensive emergency management program and, under the general supervision of the local emergency management director, shall serve as a direct function of the office of county judge/executive or mayor. In accordance with the policies of the state-local finance officer, a separate emergency management agency fund account shall be designated and included in the city, county, and urban-county or charter county budget ledgers, and all financial matters of a local emergency management agency, involving funds provided through the Division of Emergency Management, shall be handled through the county, urban-county, or charter county treasury and financial system.

(4) City, county, and urban-county or charter county governments may use the term "emergency management" in a manner or form appropriate to constitute and designate the official name of the local emergency management agency established pursuant to this chapter, except for any use of the term "Division of Emergency Management" specified to constitute and designate the official name of the state emergency management agency pursuant to Section 3 of this Act. The term "emergency management" may be used in a manner or form appropriate to constitute and designate the official name of a local emergency management council, or the statewide association of emergency management agencies or personnel, but shall not be utilized by, assigned to, or otherwise specified by any local unit, agency, or department, or any political subdivision of the Commonwealth in any manner or form to constitute or designate the official name of the local unit, agency, or department, or political subdivision, except as authorized in this subsection.

(5) All local emergency management agencies or local disaster and emergency services organizations in the Commonwealth, and the local directors, and members of each, shall, for all purposes, be under the direction of the director of the division, and of the Governor when the latter deems that action necessary.

SECTION 30. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

(1) The county judge/executive of each county, the mayor of each city or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) In lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsections (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial, or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and the county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to *function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, or urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.*

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to Sections 40 and 41 of this Act, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

SECTION 31. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

A local emergency management director, appointed pursuant to this chapter, shall have the following powers, authorities, rights, and duties:

(1) To represent the county judge/executive or mayor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the county, urban-county, charter county, or the county and the cities therein, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;

(2) To be the executive head and chief administrative officer of the local emergency management agency, and to direct, control, supervise, and manage, the development, preparation, organization, administration, operation, implementation, and maintenance of the comprehensive emergency management program of the county, urban-county government, charter county government, or the county and the cities therein, and to coordinate all local disaster and emergency response, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;

(3) To develop and maintain a local emergency operations plan entitled "county emergency operations plan," or "city emergency operations plan," or "city/county emergency operations plan," as appropriate, the provisions of which shall establish the organizational structure to be utilized by local government to manage disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination of all disaster and emergency response in the county and all the cities therein for an emergency, declared emergency, disaster, or catastrophe. The local emergency operations plan shall be developed consistent with the appropriate provisions of the Kentucky emergency operations plan, the provisions of KRS Chapters 39A to 39F, planning guidance issued by the division, and administrative regulations promulgated by the division. The local emergency operations plan shall be officially adopted by signed executive order of the county judge/executive or mayor. The executive order shall be filed with the office of the clerk for the local jurisdiction and a copy placed in the local emergency operations plan. A copy of the local emergency operations plan, and all revisions or updates thereto, shall be submitted by the local director to the Division of Emergency Management for concurrence review and reference. The local emergency operations plan shall be a component of the integrated emergency management system of the Commonwealth, and subject to the Kentucky Emergency Operations Plan, shall be the primary local strategic planning document governing the coordination of all disaster and emergency response in the county, city, or the county and the cities therein, and shall be applicable to, utilized by, and adhered to by, all local emergency response departments, agencies, and officials of the local disaster and emergency services organization in the county and the cities therein. The local emergency operations plan shall be updated not less than annually;

(4) To establish and maintain a local disaster and emergency services organization in accordance with the local emergency operations plan, the Kentucky Emergency Operations Plan, and the provisions of Section 33 of this Act;

(5) To notify the county judge/executive, mayor, or executive authority of other local governments and the Division of Emergency Management immediately of the occurrence, or threatened or impending occurrence, of any emergency or disaster, and recommend any emergency actions which should be executed;

(6) To be the chief advisor to, and the primary on-scene representative of, the county judge/executive, mayor, or executive authority of other local governments in the event of occurrence of any emergency, declared emergency, disaster, or catastrophe within the local jurisdiction;

(7) (a) To respond and have full access to the scenes of an emergency, declared emergency, disaster, or catastrophe to immediately investigate, analyze, or assess the seriousness of all situations; to coordinate the establishment and operation of a local incident command or management system; to execute the local emergency operations plan, as appropriate; to activate the local emergency operations center or on-scene command post; to convene meetings, gather information, conduct briefings, and to notify the division of on-going response actions; and fully expedite and coordinate the disaster and emergency response of all local public and private agencies, or to have a staff assistant do so;

(b) At a declared emergency or declared disaster, at the direction of the county judge executive or mayor, as appropriate, to take or direct immediate actions to protect public safety; however, this paragraph shall not preclude a local director from providing any assistance that he is requested to, and is able to, provide at any emergency.

(8) To act as an official representative of the division in emergency situations when specifically requested by the director;

(9) To report directly to the county judge/executive, mayor, or executive authority of other local governments, act in an official policy-making capacity when carrying out the duties of local emergency management director, and exercise full signatory authority for execution of all contracts, agreements, or other official documents pertaining to the administration and operation of the local emergency management agency and program;

(10) To direct or supervise all paid or volunteer emergency management staff assistants or other local emergency management agency workers, and all operating units or personnel officially appointed and affiliated with the local disaster and emergency services organization pursuant to Section 35 of this Act;

(11) To prepare and submit regular or scheduled program activity reports to the area manager of the division and local chief executives;

(12) To execute bond, if appropriate, in the amount determined by the appointing authorities;

(13) Annually, by the first day of March, to prepare and submit a program budget request to the county judge/executive and mayor;

(14) Annually, by the fifteenth day of July, to prepare and submit to the division a locally-approved, fiscal year program paper and budget request;

(15) To perform all administrative, organizational, or operational tasks required by the provisions of this chapter, or administrative regulations, or program guidance pertaining thereto;

(16) To be a registered member of the Kentucky Emergency Management Association or other professional emergency management organization; and

(17) To carry out all other emergency management-related duties as required by KRS Chapters 39A to 39F, administrative regulations, or local orders or ordinances.

SECTION 32. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

(1) The local director of each local emergency management agency in the Commonwealth may develop or cause to be developed mutual aid arrangements with special districts and other public and private agencies within this Commonwealth for reciprocal disaster and emergency response aid and assistance in case of disaster or other emergency too great to be dealt with unassisted. The arrangements shall be consistent with the Kentucky Emergency Operations Plan, the local emergency operations plan, and the comprehensive emergency management program of the Commonwealth, and in time of emergency it shall be the duty of each local disaster and emergency services organizational unit, including each special district, and each public or private agency, to render assistance in accordance with the provisions of these mutual aid arrangements.

(2) The local director of each local emergency management agency in the Commonwealth may assist the division, acting on behalf of the Governor, in negotiation of reciprocal mutual aid agreements between the Commonwealth and other states, including foreign states or provinces, or their political subdivisions, and shall carry out the arrangements or any agreements relating to the local political subdivision.

SECTION 33. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

(1) Each local emergency management director shall establish and maintain a local disaster and emergency services organization in accordance with a city or county or city/county emergency operations plan required pursuant to KRS Chapters 39A to 39F. The local disaster and emergency services organization shall be comprised of the following members and participants:

- *(a) The county judge/executive and mayors, or the chief executive of other local governments;*
- *(b) Elected legislative officials of the county and cities;*
- *(c) The local emergency management director and all local emergency management agency staff members and workers, or emergency management agency-supervised operating units or personnel;*

(d) All regular or volunteer public safety or emergency services department heads or agency chiefs in the cities or county;

(e) All regular or volunteer public safety or emergency services department or agency members in the cities or county;

(f) All districts, corporations, public agencies, groups, or political subdivisions of the state and special districts within the county or the cities thereof, which are organized under the laws of the Commonwealth to provide an emergency response service or related function in the interest of public safety; and

(g) All private sector personnel, agencies, organizations, companies, businesses, or individuals and citizens who agree to provide their assets, resources, talents, services, or supplies in aid to the local disaster and emergency services organization of the cities or county in accordance with the approved local emergency operations plan of the city, county, urban-county government, or charter county government.

(2) The local disaster and emergency services organization shall have responsibility for the performance of all disaster and emergency response functions contemplated in Section 1, 2, or 3 of this Act and as listed or assigned in the city, county, or city/county emergency operations plan, except that the Division of Forestry of the Natural Resources and Environmental Protection Cabinet shall have primary responsibility for directing the implementation of all forest fire emergency responses consistent with KRS Chapter 149. Disaster and emergency response functions may be assigned within the local disaster and emergency services organization to existing agencies and organizations, public and private. It shall not be necessary for the local disaster and emergency services organization to create, provide, or maintain an additional or auxiliary capability for any existing function or service deemed adequate to local needs.

(3) The local disaster and emergency services organization shall be the primary disaster and emergency response force of city, county, urban-county government, or charter county government and an organizational component of the integrated emergency management system of the Commonwealth. The local emergency management director shall have primary responsibility for the coordination of all disaster and emergency response of the local disaster and emergency services organization for an emergency, declared emergency, disaster, or catastrophe.

SECTION 34. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

(1) The city or county or city/county emergency operations plan developed pursuant to the provisions of KRS Chapters 39A to 39F shall include adequate provisions or procedures to assess, mitigate, prepare for, respond to, and recover from all disaster or emergency incidents contemplated by Section 1, 2, or 3 of this Act and shall provide for all functions contemplated by these sections.

(2) The local emergency operations plan shall be submitted by the local director to the county judge/executive, mayor, or chief executive of other local governments immediately following each regular election for these offices, for approval and adoption by the local chief executives through issuance of an executive order pursuant to the provisions of KRS Chapters 39A to 39F.

(3) In the event of a conflict between a city emergency operations plan and a county emergency operations plan and decisions made thereunder:

(a) The decision made pursuant to the county plan shall prevail if the incident, its consequences, or the threat thereof, extend beyond the boundaries of the city;

(b) The decision made pursuant to the city plan shall prevail if the incident, its consequences, or the threat of the incident, do not extend beyond the boundaries of the city; and

(c) The same precedence shall govern plans of urban-counties and charter counties.

SECTION 35. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

Each city, county, urban-county government, or charter county government may:

(1) Through the county judge/executive of a county other than an urban-county government, mayor of an urban-county government, chief executive of other local governments, or mayor of a city, or their designees as provided by ordinance, declare in writing a state of emergency when required, and thereafter execute any emergency powers granted under this chapter to provide for adequate and appropriate response to any occurrence or situation or any impending event or situation resulting from any of the situations or events contemplated by Section 1, 2, or 3 of this Act;

(2) Appropriate and expend funds, make contracts, enact cost-recovery ordinances, obtain and distribute equipment, materials, and supplies for disaster and emergency response purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster or emergency; review or approve local emergency operations plans; and enact orders or ordinances pertaining to local emergency management programs in accordance with the policies and plans prescribed by the federal and state emergency management agencies and the provisions of KRS Chapters 39A to 39F;

(3) Appoint, employ, remove, or provide, with or without compensation, staff assistants to the local emergency

management director, and clerical, administrative, technical or other local emergency management agency staff personnel, and local emergency management agency-supervised operating units officially affiliated with the local disaster and emergency services organization by city or county order or ordinance including rescue squads, auxiliary fire, police, and medical personnel, urban search and rescue teams, severe weather spotters teams, damage assessment teams, amateur radio or communications personnel, or other emergency response groups, teams, or personnel, and other disaster and emergency response workers;

(4) Establish a primary and one (1) or more secondary emergency operations centers or on-scene command posts to serve as official local government command posts during an emergency, declared emergency, disaster, or catastrophe;

(5) Subject to the order of the Governor, or the chief executive of the county, urban-county government, charter county government, or city, to assign and make available for duty, the employees, property, or equipment of the county or city relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for disaster and emergency response purposes within or outside of the physical limits of the county, urban-county government, charter county government, or city;

(6) In the event of a national emergency or state of declared emergency or declared disaster or catastrophe, as provided in Section 9 of this Act, waive procedures and formalities otherwise required by the law pertaining to: the performance of public work; entering into contracts; the incurring of obligations; the employment of permanent and temporary workers; the utilization of volunteer workers; the rental of equipment; the purchase and distribution, with or without compensation, of supplies, materials, and facilities; the appropriation and expenditure of public funds; and the demolition and removal of damaged public and private structures; and

(7) Confer or authorize the conferring upon members of the auxiliary police the powers of peace officers, subject to the provisions of KRS 61.300, and any other restrictions imposed by the appointing authority.

SECTION 36. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

When the employees of any county, urban-county, charter county, or city are rendering outside aid pursuant to the authority contained in this chapter, the employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the jurisdiction in which they are normally employed.

SECTION 37. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

(1) The city, county, urban-county government or charter county government, in which any equipment is used pursuant to this chapter shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for loss, damage, or expense shall be allowed unless, within sixty (60) days after it is sustained or incurred, an itemized written notice of the claim under oath is served by mail or otherwise upon the chief fiscal officer of the county, urban-county, charter county, or city where the equipment was used. The county, urban-county, charter county, or city which is aided pursuant to this chapter shall also reimburse the county, urban-county, charter county, or city furnishing the aid for the compensation paid to employees furnished under this chapter during the time of the rendition of the aid, and shall defray the actual traveling and maintenance expenses of the employees while they are rendering the aid. Reimbursement shall include any amounts paid or due to compensation due to personal injury or death while employees are engaged in rendering aid. The term "employee" as used in this section shall mean, and the provisions of the section shall apply with equal effect to, paid, volunteer, or auxiliary employees, and other local emergency management agency or disaster and emergency response workers.

(2) The rights, privileges, and obligations set out in this section shall also apply if aid is rendered outside the Commonwealth. Payment or reimbursement in this case shall be made by the state or political subdivision receiving the aid pursuant to a reciprocal mutual aid agreement or compact with another state or by the federal government.

SECTION 38. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

The chief executive or governing body of each political subdivision of the state may:

(1) Enter into a contract or lease with the state, or accept any loan, or employ personnel, and the political subdivision may equip, maintain, utilize, and operate any property and employ necessary personnel therefor in accordance with the purposes for which the contract is executed; and

(2) Do all things and perform all acts deemed necessary to effectuate the purpose for which the contract was entered into in accordance with the Kentucky Emergency Operations Plan.

SECTION 39. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this chapter or any administrative regulation or order promulgated pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

SECTION 40. KRS CHAPTER 39C IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

In order to develop and maintain effective local emergency management agencies, and comprehensive emergency management programs and related activities, it is declared to be the policy of the Commonwealth of Kentucky to encourage and assist the counties, cities, urban-county governments or charter county governments of the Commonwealth by authorizing, and there is hereby authorized, the expenditure of supplementary state funds for local emergency management agencies which are created, administered, operated, and maintained pursuant to KRS Chapters 39A to 39F, and are integral components of the integrated emergency management system of this Commonwealth.

SECTION 41. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

Supplementary state funds appropriated to the division shall be allocated by the division to local emergency management agencies on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local funds expended by the local agencies in any given year for the institution, administration, or support of the comprehensive emergency management programs of the city, county, urban-county government or charter county government.

SECTION 42. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

The purpose of the supplementary state fund established in Sections 40 and 41 of this Act is to:

(1) Assist local emergency management agencies established pursuant to KRS Chapters 39A to 39F to develop adequate comprehensive emergency management programs and disaster and emergency response capabilities;

(2) Maintain and improve these agencies, programs, and capabilities through enhanced training, planning, staffing, administration, operations, and equipment acquisition; and

(3) Benefit the Commonwealth as a whole, through creation of an effective and responsive statewide integrated emergency management system.

SECTION 43. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

(1) The Director of the Division of Emergency Management shall have overall responsibility for policy, guidance, administration, and proper utilization of the supplementary fund established in Sections 40 and 41 of this Act.

(2) The director shall serve as the principal liaison between the division and local officials participating in programs affected by this fund.

(3) The director shall appoint an advisory committee consisting of seven (7) members, including no more than four (4) employees of the staff of the division, to assist in making initial funding allocations each fiscal year and in making quarterly adjustments, based upon program and financial reviews. The members of the committee shall serve at the pleasure of the director, but for no more than four (4) years without reappointment, and shall serve without reimbursement, except when funded through the emergency management assistance programs. The decisions of the committees shall be advisory only and not binding upon the director.

(4) The director, with the advice of the advisory committee, shall make determinations related to fund allocations.

(5) Area managers of the division shall fully explain program opportunities and requirements to local elected officials and local directors, review budget and program submissions, and make recommendations to the director.

(6) Funds pursuant to Sections 40 and 41 of this Act shall be made available to not more than one (1) local emergency management agency in any county on a reimbursement basis up to fifty percent (50%) of the total local funds expended in any given year by the local emergency management agency created pursuant to KRS Chapters 39A to 39F.

SECTION 44. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

Local emergency management agencies created pursuant to Section 29 of this Act shall be eligible to apply for benefits from the fund created pursuant to Sections 40 and 41 of this chapter if they meet the following criteria:

(1) The local emergency management agency shall have a qualified, duly-appointed local director who is capable of fully executing the duties of the position pursuant to Section 31 of this Act. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, during the first year of participation in the funding program, the local director, whether serving on a voluntary or paid basis, shall have successfully completed all correspondence courses specified by the division by administrative regulation. The local director shall also participate in an emergency management workshop when offered. Unless the local director has already completed an introductory emergency management course or is determined by the director to be suitably qualified, each local director shall also attend an introductory emergency management course when offered.

(a) In each following year, each local director shall attend an emergency management workshop, when offered.

(b) In subsequent years, a local director shall continue his or her education by annually completing advanced instruction offered by the division, including the training courses and the Emergency Management Development Program as required by administrative regulations promulgated by the division. The requirements of this section may be met by successfully completing related courses offered by federal

agencies and other organizations, as approved by the division.

(2) Each local emergency management agency employee, other than the local director, whose salary is reimbursed in part by this fund, shall attend one (1) emergency management workshop at least every other year, and shall complete other instruction offered by the division as required by administrative regulations promulgated by the division.

(3) The local director appointed pursuant to KRS Chapters 39A to 39F, shall develop a local emergency operations plan and appropriate annexes. This plan shall be subject to concurrence review by the director of the division. In subsequent years, the plan and all annexes shall annually be reviewed, updated, approved, and officially adopted in accordance with the provisions of KRS Chapters 39A to 39F.

(4) During the second and each subsequent year of participation in the program, the local director shall conduct an exercise to test the local emergency operations plan in accordance with exercise program requirements and guidelines of the Federal Emergency Management Agency or the division.

(5) Each local emergency management agency created pursuant to KRS Chapters 39A to 39F shall provide for an organized and designated emergency operating center in the local jurisdiction from which all operations of the local disaster and emergency services organization shall be coordinated. This center shall provide resources for communications, information management, and other operational capabilities necessary to ensure the coordination of all disaster and emergency response in the local jurisdiction. The local emergency operations center shall be a direction and control component of the integrated emergency management system of the Commonwealth.

(6) Each local emergency management agency shall develop, and submit annually to the division, a program paper detailing agency administrative data, current staff personnel listings, a specific work plan of program objectives scheduled for accomplishment during the next fiscal year, and a budget request. Forms and guidance materials for this report shall be provided by the division.

(7) Each employee of a local emergency management agency created pursuant to this chapter with the exception of the local director and each deputy, if the deputy functions in a policymaking capacity, whose salary is reimbursed in part or in total with these funds, shall meet the standards of the Kentucky merit system, or the standards of the federal Office of Personnel Management or its successor or local equivalent, when recognized by the director.

(8) In order for a local emergency management agency to participate in the funding program, one (1) of the following persons shall attend an annual emergency management workshop:

(a) The county judge/executive;

(b) The deputy county judge/executive;

(c) The mayor of an urban-county government or the largest city in the county, or the mayor of the city which is the county seat of the county, or the chief executive of other local government;

(d) The city manager;

(e) The local emergency management deputy director; or

(f) A member of the fiscal court or urban-county council of the county.

(9) The division shall determine by administrative regulation:

(a) Public officials and disaster and emergency services personnel who may be reimbursed for attendance at emergency management workshops or other activities; and

(b) Reimbursements for attending courses and workshops, which shall be limited as follows:

1. Reimbursement rates for meals and travel mileage shall not exceed those for state employees.

2. Reimbursement shall be made for attending the workshop or course nearest to the participant's residence. A participant may attend a workshop at a greater distance but will be reimbursed for meals and mileage equal to that of attending the nearest workshop or course. In cases of extreme hardship, the nearest course or workshop requirement may be waived, in writing, by the director.

(10) The division shall:

(a) Publicize all available state and federal emergency management agency training courses to mayors, county judges/executive, and local directors; and

(b) Assist local personnel listed in this section in gaining entrance to state and federal emergency management agency training courses.

(11) If, at any time, the director of the division determines that a local emergency management agency or a local director does not comply with the eligibility requirements of this section, the director shall notify that local director, and the appointing authorities, in writing, of the intent to deny financial assistance to the local emergency management agency. The local director shall have ten (10) working days to come into compliance or otherwise provide information to the director to justify eligibility for funding. If the director continues to determine that the local

emergency management agency or the local director does not meet eligibility requirements, the local emergency management agency shall be ineligible for funds and the director shall notify the local director and the appointing authorities, of the determination. A local director aggrieved by a decision of the director may appeal to the Franklin Circuit Court within twenty (20) days of the receipt of the director's decision. The court's review shall be from the record and shall not be de novo.

SECTION 45. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

(1) Local emergency management agencies requesting financial aid from the fund created pursuant to Sections 40 and 41 of this Act, shall submit, not later than July 15 of each year, a local "Annual Program Paper" application to the area manager of the division.

(2) The area manager shall review the application and accompanying documents and forward them to the director of the division along with the area manager's assessments and recommendations, not later than August 15 of each year.

(3) The director shall submit the request for financial aid to the advisory committee for its review and recommendations. The advisory committee shall review the application, accompanying documents, and the assessment and recommendation of the area manager and make a recommendation to the director with regard to the application and the request for funding.

(4) Requests for funding shall be evaluated by the following criteria:

(a) Meeting the eligibility criteria specified in Section 44 of this Act, unless some aspect thereof has been waived as provided in Section 48 of this Act.

(b) Meeting all the requirements specified by the division for developing, preparing, maintaining, and submitting the annual program paper.

(c) Local emergency operations plans submitted and a determination of their conformity to the Kentucky Emergency Operations Plan, and an assessment of their capability, state of currency, sign of official adoption, and general adequacy to provide for the coordination of disaster and emergency response operations.

(d) Past program performance of the local director in fully carrying out the duties of local director as specified in Section 31 of this Act, and overall program performance as it relates to completeness, adequacy, and timeliness in accomplishing program tasks, objectives, or goals.

(e) Historical spending records for this and similar programs.

(f) Local resources committed to the program on a per capita basis.

(5) If available funds do not meet the total funds requested by all local emergency management agencies, then funding allocations may be reduced after a reevaluation of the criteria set forth in subsection (4) of this section.

(6) The director of the Division of Emergency Management shall then review and evaluate each application, together with the recommendations thereon, and not later than September 15 of each year, designate and approve funds for eligible local emergency management agencies and notify the local director.

SECTION 46. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

(1) Within fifteen (15) days of the end of each month, the local emergency management agency shall submit a completed claim of reimbursement with supporting documentation to the area manager of the division. After review, the area manager shall forward the documentation for administrative review and a reimbursement check shall be returned to the jurisdiction. Reimbursement shall be at the predetermined rate.

(2) Requests to utilize these funds to purchase any item of emergency management-related administrative or office equipment having a total cost in excess of five hundred dollars ($500) shall be submitted to the director for approval or denial before the purchase. To obtain approval, the local emergency management agency shall submit a project application to the area manager, who shall review it and forward it to the director, together with the area manager's recommendations in reference thereto. If the application is approved by the director, the local emergency management agency shall be notified of the approval and, after making the purchase, may submit a reimbursement claim.

SECTION 47. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

(1) The performance of each local emergency management agency or local director receiving funding pursuant to Sections 40 and 41 of this Act shall be evaluated quarterly as to compliance with the provisions of KRS Chapters 39A to 39F, satisfactory program administration, and the achievement of scheduled program objectives by the local emergency management agency or local director. Based upon this evaluation:

(a) Programs which are judged deficient, or otherwise not in compliance with KRS Chapters 39A to 39F, or program guidance of the division, may have funds withheld and those funds which have been withheld may

be transferred to other local emergency management agencies.

(b) Programs which meet or exceed their minimum program objectives and have needs for additional funds for program improvements may be granted additional requested funds, or portions thereof, for use by the local emergency management agency in making the improvements, subject to the availability of funds.

(2) Within fifteen (15) days after the end of each quarter, the local emergency management director shall prepare and submit all documentation, records, or reports required by the division to substantiate and document the work activity of the local director and the local emergency management agency in performing official duties or work plan objectives during each quarter.

(3) Program progress and compliance shall be reviewed quarterly by the area manager of the geographical area in which the local emergency management agency is located. The area manager shall review training records, exercise reports, financial records and budget expenditure rates, all work plan documentation reports or materials submitted by the local director at the end of each quarter, program guidance materials, or other sources of information, and make an assessment as to whether the local emergency management agency or local director is in compliance with current program requirements or guidance, or is making satisfactory progress toward the full achievement of the objectives outlined in the work plan of the annual program paper. The area manager shall transmit an assessment report to the director of the division together with any recommendations thereon.

(4) The director shall then review the material submitted, together with the area manager's recommendations, and submit it to the advisory committee for its evaluation and recommendations with regard thereto.

(5) The advisory committee shall transmit to the director its determination of the local emergency management agency's state of compliance or progress, and that of the local director, and the committee's recommendations with regard thereto. The director shall review the report and all recommendations thereon. The director shall then make a final determination with regard to compliance and progress and, if a deficiency is found, the measures which shall be taken to assure compliance.

(6) Local emergency management agencies or local directors determined not to be making satisfactory progress toward the accomplishment or completion of work plan objectives as outlined in the annual program paper, or not performing in accordance with the written program guidance or the requirements of KRS Chapters 39A to 39F, shall be given thirty (30) days to correct the deficiencies in the manner outlined by the director.

(7) A local emergency management agency aggrieved by a decision of the director may appeal to the Franklin Circuit Court within twenty (20) days of the receipt of the director's decision. The court's review shall be from the record and shall not be de novo, unless the record is insufficient.

(8) If a decision has been made by the director to withhold funding from the local emergency management agency, that funding shall remain withheld during the pendency of any appeals of the decision.

(9) At the end of the thirty (30) day period further funding may be withdrawn by the director, if the deficiencies have not been corrected. The funds may then be reallocated to other local emergency management agencies.

(10) The director, during the review process outlined in this section, shall also review the expenditure rate of each local emergency management agency receiving funds. If it is determined that a local agency will not utilize all allocated funds, appropriate portions of the allocation may be withdrawn and reallocated to another local emergency management agency.

SECTION 48. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

Requests for the waiver of any requirement of Sections 44, 45, 46, and 47 of this Act or any criteria of KRS Chapter 39F may be submitted with appropriate justification to the director of the division. The director may grant waivers only upon the finding that the justification merits special action and failure to grant the waiver would jeopardize the continuation or development of a viable local emergency management agency and program. In every case, the director shall insure that the local agency and program continues to meet the basic intent of KRS Chapter 39B. Waivers shall apply on a one (1) time basis relating to a specific request and shall not be construed to establish precedents.

SECTION 49. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

The division shall administer the supplementary state funding program authorized in Sections 40 and 41 of this Act and the division shall, by administrative regulations, promulgate and apply eligibility requirements and standards of performance to be achieved by all local emergency management agencies. The division may promulgate other administrative regulations, and issue any program guidance, necessary to carry out the provisions of Sections 40 and 41 of this Act.

SECTION 50. A NEW SECTION OF KRS CHAPTER 39C IS CREATED TO READ AS FOLLOWS:

Local emergency management agencies, including local directors or their deputies, and other local emergency management agency staff personnel and workers, and local emergency management agency-supervised operating units or personnel officially affiliated with the local disaster and emergency services organizations pursuant to Section 35 of this Act, paid or volunteer, for the purposes of receiving workers' compensation benefits paid by the division, shall be covered by those *benefits when performing emergency assessment, mitigation, preparedness, response, or recovery functions, with the following limitations:*

(1) The local emergency management agencies, including local directors or staff personnel and workers, and local emergency management agency-supervised operating units or personnel, shall not be covered when performing fundraising functions, unless all proceeds of the function are to be dedicated to the administration or operation of the local emergency management agency or operating unit.

(2) No person shall be covered when performing hazardous materials emergency response operations defined in 29 C.F.R. 1910.120 which are above the first-responder operations level, on-scene incident commander level excluded, except as provided in subsection (3) of this section.

(3) A volunteer hazardous materials response team as defined in 29 C.F.R. 1910.120 which meets all provisions of 29 C.F.R. 1910.120(q), operates on a regional basis, and is supervised by a local emergency management agency may, by action of the director pursuant to administrative regulations, be provided Kentucky emergency management workers' compensation coverage. Such hazardous materials response teams shall take no actions involving environmental clean-up, removal, or transportation of hazardous substances or materials except as may be essential for initial emergency control or initial emergency stabilization when there is a clear and evident risk of harm to people.

(4) No person shall be covered unless enrolled on a workers' compensation enrollment form that is filed with the area manager of the division, except when the magnitude of an emergency, or a preparedness exercise activity, is so great that a local director must solicit additional workers. At these times, the local director may develop and maintain a list of workers, to include names, Social Security account numbers, missions assigned, and dates covered, and submit a copy of the list to the area manager within twenty-four (24) hours of the conclusion of the emergency, or the preparedness exercise activity.

SECTION 51. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this chapter or any administrative regulation promulgated or order issued pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

SECTION 52. KRS CHAPTER 39D IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) When, during a state of emergency, it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital, the Governor shall, as often as the exigencies of the situation require, by proclamation, designate a temporary location for the seat of government at the place within this Commonwealth deemed advisable, and shall take action and issue orders necessary for an orderly transition of the affairs of state government to the temporary location. If practicable, the temporary location designated by the Governor shall conform to that provided for in the current Kentucky Emergency Operations Plan. The temporary location shall remain as the seat of government until the Governor establishes a new location under this section, or until the emergency is ended and the seat of government is returned to its normal location.

(2) While the seat of government remains at the temporary location, all official acts required by law to be performed at the seat of government by any officer, independent agency, division, or authority of this Commonwealth, including the convening and meeting of the General Assembly in regular or special session, shall be as valid and binding when performed at that temporary location as if performed at the normal location.

SECTION 53. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

(1) When, during a state of emergency, it becomes imprudent, inexpedient, or impossible to conduct the affairs of local government at the regular or usual places, the governing body of each county, urban-county, charter county, and city of this Commonwealth may meet at any place within or without the territorial limits of that political subdivision, at the direction of the elected chief executive officer or his or her successor, and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute places as the temporary locations of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. The alternate or substitute places may be within or without the territorial limits of the county, urban-county, charter county, and city, and shall be within those of the state. If practicable, they shall be the places designated as the temporary locations of government in the current local emergency operations plan.

(2) While the public business is being conducted at a temporary location, the governing body and other officers of a county, urban-county, charter county, and city of this Commonwealth shall have and exercise, at that location, all of the executive, legislative, administrative, and judicial powers and functions conferred upon that body and officers under state law. The powers and functions, except judicial, may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto. All acts of the body and officers shall be as valid and binding as if performed within the territorial limits of their county, urban-county, charter county and city.

(3) This section shall control notwithstanding any statutory charter or ordinance provision to the contrary.

SECTION 54. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

The governing body of each county, urban-county government, charter county government, and city shall enact the ordinances and resolutions necessary to provide for the continuity of government throughout the duration of a state of emergency. The ordinances and resolutions shall provide a method by which temporary emergency appointments to public office are made, except as limited by express constitutional provisions, and shall define the scope of the powers and duties which may be exercised, and provide for termination of the appointment so made. This section shall control notwithstanding any statutory provision to the contrary.

SECTION 55. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context clearly requires otherwise:

(a) "Emergency interim successor" means a person designated under this section, if an officer is unavailable, to exercise the powers and discharge the duties of that office until a successor is appointed or elected and qualified as provided by law, or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(b) "Office" includes all state and local offices, the powers and duties of which are defined by law, except the office of Governor, and except those in the General Assembly and the judiciary. An "officer" is a person who holds an office.

(c) "Political subdivision" includes counties, urban-counties, charter counties, cities, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(d) "Unavailable" means that during a state of emergency either:

1. A vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office; or

2. That the lawful incumbent of the office and any duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(2) Subject to administrative regulations of the Governor, all state officers, shall, in addition to any deputy authorized to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of emergency interim successors so that there will be not fewer than three (3) nor more than seven (7) deputies or emergency interim successors or any combination thereof, at any time. If any state officer is unavailable following an emergency, and if a deputy, if any, is also unavailable, the powers of office shall be exercised and the duties of office shall be discharged by any designated emergency interim successors in the order specified. The emergency interim successors shall exercise the powers and discharge the duties only until such time as the Governor under the Constitution or authority other than this section, or other official authorized under the Constitution or this section to exercise the powers and discharge the duties of the office of Governor has, where a vacancy exists, appointed a successor to fill the vacancy, or until a successor is otherwise appointed, or elected and qualified as provided by law, or until an officer or any deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise and discharge of, the powers and duties of the office.

(3) Each cabinet and each department of state government, and each agency of state government shall appoint not fewer than three (3) nor more than seven (7) emergency interim successors for each position specified in the Kentucky Emergency Operations Plan and the internal emergency operations procedures for that department or agency. Emergency interim successors in the order of the succession shall have the full power to exercise all powers of their department or agency and to commit its resources during a time of emergency or disaster if the person normally exercising the position becomes unavailable. If the preceding emergency successor becomes unavailable he or she shall resume all duties from the emergency interim successor, unless he or she chooses to permit the emergency interim successor to remain in the position until relieved.

(4) The local legislative bodies of cities, counties, urban-counties, and charter counties shall enact ordinances or orders governing the manner in which vacancies in offices and employment shall be filled, and for the prompt filling thereof during times of disaster and emergency, if the filling of these vacancies is not otherwise provided for by law. The legislative bodies shall enact ordinances providing for the appointment of not fewer than three (3) nor more than seven (7) emergency interim successors for each local office, department, and agency specified in the Kentucky Emergency Operations Plan and local emergency operations plans and annexes thereto. Emergency interim successors, in the order of their successions, shall have the full power to exercise all powers of the office, department, or agency and to commit its resources during a time of emergency or disaster if the person normally exercising the position is unavailable. If the preceding emergency successor becomes available, he or she shall

resume the duties being performed by the emergency interim successor, unless he or she chooses to permit the emergency interim successor to remain in the position until relieved. The administrative orders and ordinances shall not be inconsistent with this section.

(5) This section applies to officers of all special districts and political subdivisions not included in subsection (4) of this section. The officers, subject to such administrative regulations as the executive head of the political subdivision promulgates, shall designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of persons so that there will be not fewer than three (3) nor more than seven (7) deputies or emergency interim successors or any combination thereof at any time. If any officer of any political subdivision or any deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by the designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until the time a vacancy which exists is filled in accordance with the Constitution or the KRS, or until the officer, a deputy, or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of the office.

(6) No person shall be designated or serve as an emergency interim successor unless he or she is eligible under the Constitution and statutes to hold the office to which he or she is designated to succeed, but no statutory provision prohibiting local or state officials from holding another office shall be applicable to an emergency interim successor.

(7) Emergency interim successors shall take the oath required to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he or she succeeds, shall be required to comply with any other provision of law relative to taking office.

(8) Officials authorized to act as Governor pursuant to this section, and emergency interim successors are empowered to exercise the powers and discharge the duties of an office only during the continuance of an emergency. The General Assembly, by joint resolution, may at any time terminate the authority of the emergency interim successors to exercise the powers and discharge the duties of office.

(9) Until the persons designated as emergency interim successors shall exercise the powers and discharge the duties of an office in accordance with this section, the persons shall serve in their designated capacities at the pleasure of the designating authority.

(10) Any dispute concerning a question of fact arising under this section with respect to an office in the executive division of the state government, except a dispute of fact relative to the office of Governor, shall be adjudicated by the Governor or other official authorized under the Constitution to exercise the powers and discharge the duties of the office of Governor, and the decision reached shall be final.

SECTION 56. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

The state Archives and Records Commission shall establish a system for the preservation of essential state public records necessary for the continuity of governmental functions in the event of an emergency, disaster, or catastrophe. The commission shall:

(1) Determine what records are essential for operation during a state of emergency and thereafter through consultation with all state cabinets, departments, and independent agencies and the administrator of state archives services and records, establish the manner in which the records shall be preserved, and provide for their preservation;

(2) Require every state cabinet, department, and independent agency to establish and maintain a preservation program for essential state public records;

(3) Provide for security storage of essential state records;

(4) Furnish state cabinets, departments, and independent agencies with copies of the final plan for preservation of essential public records; and

(5) Advise all political subdivisions of the Commonwealth on preservation of essential public records.

SECTION 57. A NEW SECTION OF KRS CHAPTER 39D IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this chapter or any administrative regulation promulgated or order issued pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

SECTION 58. KRS CHAPTER 39E IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The Kentucky Emergency Response Commission is established to:

(1) Implement all provisions of Title III, Pub. L. No. 99-499, associated federal regulations, and subsequent related

legislation and regulations related to hazardous substances; develop policies related to the response of state and local governments to releases of hazardous substances; develop standards for planning for these events; develop reporting requirements for those who manufacture, use, transport, or store these substances; provide information to the public concerning hazardous substances in the community; develop training requirements; and develop requirements for local governments and covered facilities to exercise plans related to hazardous substance response; and

(2) Perform any other functions assigned by statute or by the chairman.

SECTION 59. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Commission" means the Kentucky Emergency Response Commission and those persons appointed by the Governor to implement provisions of Title III, Pub. L. No. 99-499 and this chapter.

(2) "Local emergency planning committee," hereafter referred to as the "local committee," means those persons appointed by the commission to assist in the implementation of Title III, Pub. L. No. 99-499 and this chapter.

(3) "Release" means, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers and other closed receptacles, of any hazardous substance.

(4) "Reportable quantity" means an amount of hazardous substances released which requires notification to local and state warning points.

(5) "Hazardous substance" means a substance specified by Title III, Pub. L. No. 99-499, subsequent federal regulations, this chapter, and subsequent administrative regulations as requiring notification if released or if stored, manufactured, or used.

(6) "Warning point" means that location, operated by state or local government, and identified by the state commission or local committee, and which is continuously staffed, and which has the capability or responsibility to contact governmental emergency response organizations and, if capability exists, to warn the public of hazards which may affect them.

(7) "Emergency response organization" means a unit of local government or a unit authorized by local government which may be called to make a response because of a release of a hazardous substance, and whose responsibilities are included in plans developed under this chapter.

(8) "Facility" means all buildings, equipment structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person, or by any person which controls, is controlled by, or under common control with such person, and which manufactures, stores, or uses substances covered under this chapter. For purposes of Section 76 of this Act, the term includes motor vehicles, rolling stock, and aircraft.

SECTION 60. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, representatives of the Natural Resources and Environmental Protection Cabinet, the office of the state fire marshal, the Kentucky State Police, the Office of the Attorney General, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.

(2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.

(3) The commission shall meet not less than semi-annually, or as convened by the chairman.

(4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.

(5) The presence of thirteen (13) members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.

(6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

SECTION 61. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

The commission shall:

(1) Appoint local emergency planning committees and revise these committees as it deems appropriate. The committees shall include, as a minimum, representatives from each of the following groups:

(a) Elected local officials;

(b) Law enforcement;

(c) Emergency management;

(d) Fire service;

(e) First aid;

(f) Health service;

(g) Local environmental;

(h) Hospital;

(i) Transportation;

(j) Broadcast and print media;

(k) Community groups; and

(l) Owners and operators of facilities subject to this chapter;

(2) Adopt standards and procedures for the operations of local committees;

(3) Develop reporting requirements and procedures consistent with those of Title III, Pub. L. No. 99-499, for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances;

(4) Develop guidance and standards for plans related to hazardous substances;

(5) Approve, disapprove, and, where necessary, make recommendations to improve plans developed by local emergency planning committees;

(6) Recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement provisions of this chapter, consistent with Title III, Pub. L. No. 99-499;

(7) Receive from any source and authorize the expenditure of funds;

(8) Develop policies relating to the training of committees and persons subject to respond to releases of hazardous substances;

(9) Develop policies relating to exercising and testing plans developed by local emergency planning committees;

(10) Specify a warning point to which all required emergency notifications shall be made;

(11) Develop a procedure by which facilities may report the presence and inventories of hazardous substances and by which members of the public may obtain these reports;

(12) Annually review all commission policies and procedures and update them as necessary; and

(13) Adopt policies for the conduct of the business and duties of the commission.

SECTION 62. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) The commission shall institute a fee system to assist in the administration of its programs and activities at both state and local levels.

(2) (a) Any facility required to report under the provisions of this chapter shall annually submit to the commission the required fee of forty dollars ($40) no later than March 1. This paragraph shall not apply to facilities that pay a fee pursuant to paragraph (b) of this subsection.

(b) Any facility required to report under the provisions of this chapter and which meets any of the following standards shall annually submit to the commission the required fee of two hundred fifty dollars ($250) no later than March 1:

1. The facility has any of the extremely hazardous substances identified in 40 C.F.R. Part 355, as amended;

2. The facility has eleven (11) or more hazardous substances as defined in Section 59 of this Act; or

3. The facility has a total inventory of hazardous substances as defined in Section 59 of this Act of over four hundred ninety-nine thousand nine hundred ninety-nine (499,999) pounds.

(c) If the same owner or owners own two (2) or more facilities in a single county and all of the facilities are required to submit fees pursuant to paragraph (a) of this subsection, the fees due from the owner or owners shall not exceed a total of two hundred fifty dollars ($250) for all those facilities in that county.

(d) The provisions of this subsection shall not apply to a facility owned or operated by local, state, or federal government.

(3) The funds derived from the fee system shall be placed in a trust and agency account, which shall be known as the "Kentucky Emergency Response Commission Fee Account," and which shall not lapse. The funds in the account shall be expended only for the purpose specified in subsection (1) of this section.

(4) The commission shall promulgate administrative regulations to implement the provisions of this section, for issuance by the Division of Emergency Management.

SECTION 63. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

The commission may undertake other activities that are:

(1) Required by federal law or regulation;

(2) Authorized by federal law or regulation;

(3) Authorized by executive order of the Governor;

(4) Clearly adjunct to the duties specified in Section 61 of this Act;

(5) Necessary to approve or disapprove actions of the local committees;

(6) Necessary to effectively implement the requirements of Title III, Pub. L. No. 99-499; and

(7) Necessary to commence a civil action against the owner or operator of a facility for failure to comply with the provisions of Section 326, Title III, Pub. L. No. 99-499.

SECTION 64. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) The "SARA Title III Programs Account" is hereby established as a trust and agency account in the State Treasury for the purpose of assisting in the administration and operation of programs authorized by this chapter.

(2) Funds from civil and other penalties, donations, and sources other than fees shall be placed in the account. The account shall not lapse.

SECTION 65. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) The Division of Emergency Management shall provide administrative support to the commission within the limitation of staff resources. The division may employ staff and may acquire technical or professional assistance as determined to be necessary by the director of the division, and for whom federal, state, or other funds have been provided.

(2) Persons employed under this section shall report to the director of the division and shall implement policies and directives of the commission as specified by the director. Other employees of the division may also support the commission and assist in the implementation of hazardous substance planning, reporting, investigation, training, and exercising as directed by the director. In cases when the commission develops policies or directives which cannot reasonably be implemented by division staff, the director may defer implementation until sufficient resources exist. In cases when the director advises the commission, in writing, that the division cannot provide requested resources, the commission may seek assistance from other agencies of state government.

(3) In no case shall the director devote division resources to support the commission if that support would result in the withdrawal of federal or state funds from the division.

(4) The division shall, upon concurrence by the director, promulgate administrative regulations recommended by the commission and consistent with Title III, Pub. L. No. 99-499. The regulations shall include, but not be limited to:

  (a) Substances which require inventory reporting;

  (b) Quantities of each substance covered; and

  (c) Emergency notification procedures and requirements.

SECTION 66. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Local emergency planning districts shall be consistent with county boundaries. The commission may authorize two (2) or more districts to combine, upon request of the committees of the affected districts. There shall be only one (1) emergency planning committee within a district.

SECTION 67. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) Local emergency planning committees are created as part of the state commission.

(2) Local committee members shall be appointed by the commission, and shall be considered as agents of the state for all purposes, including purposes of liability protection.

SECTION 68. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) Duties of the committees shall include:

  (a) Development of plans to prepare emergency response organizations within cities, counties, urban-county governments, and charter county governments to respond effectively to releases of hazardous substances;

(b) Identification of a twenty-four (24) hour warning point within the district to which persons responsible for releases of hazardous substances must report those releases;

(c) Establishment of a method, consistent with federal law, commission policies, and administrative regulations, by which manufacturers, users, or storers of hazardous substances may report the presence of those substances, and by which members of the public may obtain information about those substances;

(d) Appointment of a committee chairman, from among its members, for a term of two (2) years. Chairmen may be reappointed;

(e) Development and maintenance of plans consistent with administrative regulations promulgated by the commission; and

(f) Development of procedures for the annual review of emergency plans and procedures developed under this chapter.

(2) Local committees shall advise the commission of their actions by providing a copy of minutes to the commission within thirty (30) days of the date of the meeting. If the minutes are later changed before approval, a copy of the revised minutes shall be submitted to the commission within thirty (30) days of the approval.

(3) Local committees may request the chief of the fire department with jurisdiction over a facility which has, or may have, substances subject to Title III, Pub. L. No. 99-499, to make on-site inspections of the facilities and to report all findings to the chairman of the committee.

(4) Members of local committees shall serve for terms as specified by the commission, though not to exceed four (4) years except by reappointment. Committees may establish attendance standards for continued membership and shall advise the commission of any additions or deletions from the membership that are desired. These changes may be approved or disapproved by the commission.

(5) Committee meetings shall be subject to provisions of KRS 61.805 to 61.850 relating to public meetings and to KRS 61.870 to 61.884 relating to open records, provided that trade secrets, as determined by the federal Environmental Protection Agency, are processed in accordance with 42 U.S.C. 11042.

(6) The local committee may, after consultation with the commission chairman, seek civil remedies prescribed in Section 326, Pub. L. No. 99-499.

(7) The local committee may, with the advice and consent of the commission chairman, submit information to the county attorney for prosecution.

(8) Consultations pursuant to subsection (6) of this section shall be made prior to the giving of notice of intent to commence a civil action.

SECTION 69. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Owners or operators of facilities which manufacture, use, or store extremely hazardous substances, as identified in 40 C.F.R. Part 355, and in quantities as identified in administrative regulations promulgated by the Division of Emergency Management shall advise the commission, local committee, and fire department in whose jurisdiction the facility resides, of the name of the substance and its quantity, within sixty (60) days of the date the facility first receives the substance or substances in excess of the quantities as identified in the administrative regulations, or if there is a revision of these regulations and the facility has present a substance or substances on the revised list in excess of the quantity established for those substances, within sixty (60) days.

SECTION 70. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Owners or operators of facilities covered under Section 69 of this Act shall identify, within thirty (30) days of notifying the commission that the facility is subject to this chapter, the name of a facility representative who will work with the local committee in the development of emergency plans, and that person shall provide information necessary to the development of those plans.

SECTION 71. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) City, county, urban-county governments, and charter county governments, school districts, special purpose district boards, or other municipal corporations or political subdivisions of the state or local government shall participate in the planning process conducted by local emergency planning committees. This participation shall include, as a minimum, providing information concerning government-owned or controlled emergency response assets, reviewing plans developed by the committee, and concurring that the final plan can be executed with existing resources.

(2) In local governments where local emergency management agencies receive state or federal funds, those agencies shall provide administrative and planning support to the committee as specified by the director of the division.

(3) If state or federal funds are appropriated specifically to support emergency response planning or other portions of Pub. L. No. 99-499, these funds may be allocated to local emergency management agencies and may be expended as specified by the director.

(4) Local governments may enact ordinances specifying standards which owners or operators of facilities shall meet to provide warning of releases to workers and to the public which may be affected by a release.

SECTION 72. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) Plans developed under the guidance of the state commission shall be a part of the local emergency operations plan's hazardous materials annex. These plans shall be consistent with the requirements and criteria prescribed by the Kentucky Emergency Operations Plan's hazardous materials annex and shall emphasize a coordinated response by all local emergency response organizations.

(2) If, in the judgment of the commission, the local plan is inadequate, or is inconsistent with the Kentucky Emergency Operations Plan, the local plan shall be returned to the committee and the committee shall revise the plan until approved by the commission.

(3) Local committees shall annually review and update, where appropriate, each plan and submit revisions to the commission.

SECTION 73. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

After the state commission approves plans developed by each local emergency planning committee, emergency response organizations of each city, county, urban-county government, and charter county government shall respond in a manner consistent with those plans.

SECTION 74. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Agencies of state government shall respond, within the confines of the Kentucky Emergency Operations Plan and agency policies, to releases of hazardous substances. Each response shall be consistent with the hazardous materials annex of the Kentucky Emergency Operations Plan. If an on-scene response is required by the Kentucky Emergency Operations Plan or by agency policy, state agencies shall cooperate with one another and with local emergency response organizations and with the party or parties responsible for that release.

SECTION 75. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Any claims against the commission or committees or their members shall be filed with the State Board of Claims in accordance with KRS Chapter 44.

SECTION 76. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

When a release of a substance covered under Title III, Pub. L. No. 99-499 and administrative regulations promulgated under this chapter occurs in a reportable quantity, the owner or operator of the facility where the release occurs, or the owner or operator of the vehicle transporting the hazardous substance, shall notify the local and state warning points within times established by administrative regulation. These regulations shall also specify information to be provided upon initial report and in written follow-up reports.

SECTION 77. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) The state commission shall, by administrative regulation promulgated by the Division of Emergency Management, establish warning and notification standards, which shall include, but not be limited to:

(a) The establishment of twenty-four (24) hour warning points;

(b) Public warning; and

(c) Notification of local emergency response organizations.

(2) Any notification made pursuant to this chapter shall not relieve the facility owner or operator or other responsible party of any notification required by other state or federal laws or regulations.

SECTION 78. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

The division shall, upon direction of the commission, promulgate administrative regulations requiring manufacturers, users, or storers of hazardous substances to report information concerning inventories and locations of those substances. These administrative regulations shall use, by reference, lists of extremely hazardous substances and forms issued by the United States Environmental Protection Agency or by the Kentucky Emergency Response Commission.

SECTION 79. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Upon request of the commission or local committee, facilities covered by those administrative regulations required in Section 78 of this Act shall, within the time periods prescribed by federal law, provide additional information necessary for developing and implementing the emergency plan about each substance to include, but not be limited to, material safety data sheets.

SECTION 80. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

Reports to the commission or committee shall be available to the public upon request in accordance with the provisions of KRS 61.870 to 61.884 relating to open records, if this information is not protected from release to the general public as a trade secret under federal law. Reasonable fees, consistent with KRS 61.874, may be charged for reproduction of these *reports.*

SECTION 81. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

No section of this chapter shall be construed as repealing any other laws of the Commonwealth, but it shall be held and construed as ancillary and supplemental to those laws.

SECTION 82. A NEW SECTION OF KRS CHAPTER 39E IS CREATED TO READ AS FOLLOWS:

(1) Any person violating any provision of this chapter or any administrative regulation promulgated or order issued pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

(2) (a) When a person violates Section 69, 70, 76, or 79 of this Act, the commission chairman shall proceed against that person under paragraph (b) of this subsection or subsection (3) of this section but not both.

(b) Any person violating Section 69, 70, or 79 of this Act shall, upon the first conviction thereof, be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any offense is continued for more than one (1) day, each day upon which the offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed. Any person violating Section 69, 70 or 79 of this Act shall, upon subsequent convictions, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed. Any person violating Section 76 of this Act shall, upon the first conviction, be fined not less than one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500). If any offense is continued for more than one (1) day, each day upon which the offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed. Any person violating Section 76 of this Act shall, upon subsequent conviction, be fined not less than twenty-five hundred dollars ($2,500) nor more than five thousand dollars ($5,000). If any offense is continued for more than one (1) day, each day upon which the offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed.

(3) Any person violating any provision of this chapter shall be assessed a civil penalty of not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any violation is continued for more than one (1) day, each day upon which the violation occurs or is continued shall be considered and constitute a separate violation and a separate civil penalty may be imposed therefor.

SECTION 83. KRS CHAPTER 39F IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "General Rescue Squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations;

(f) High angle rescue and recovery operations.

(2) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.

(3) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.

(4) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.

(5) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.

(6) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.

(7) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department of Mines and Minerals pursuant to KRS Chapter 351.

(8) "Specialized Rescue Squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

- *(a) Cave rescue;*
- *(b) Search utilizing dogs for lost, trapped or missing persons;*
- *(c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and*
- *(d) Water rescue and recovery operations utilizing divers.*

(9) "Victim Recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

SECTION 84. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) Rescue squads may be formed and duly authorized to perform in the public interest. Authorization to operate within a jurisdiction may be granted by the chief elected official of each urban-county government, charter county government, county, or city which the squad proposes to serve. Rescue squads shall have a formal affiliation with the local disaster and emergency services organization. The statement of affiliation shall be renewed annually.

(2) Except as provided in Section 86 of this Act, a rescue squad shall be composed of at least twelve (12) active members and shall maintain at least one (1) vehicle dedicated to rescue service. Squads may operate in conjunction with a fire division, or may operate as a separate unit.

(3) Each rescue squad shall develop and maintain bylaws and written procedures to specify, at a minimum, election or appointment, succession, and term of officers; financial accounting; property accountability; and rules of notification and response to emergencies.

(4) Rescue squads shall contribute to public safety and welfare by performing functions which may include but not be limited to: removal of victims trapped in vehicles or structures; search for lost or missing persons, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; and traffic control at an accident scene when requested by law enforcement authorities. Rescue squads shall not engage in law enforcement activities other than traffic control.

(5) The division shall administer funds appropriated for rescue equipment and training and the division shall promulgate administrative regulations to be applied to all rescue squads that apply for financial assistance.

SECTION 85. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A rescue squad which proposes to provide regional or statewide specialized rescue services may apply to the director for an alternative affiliation agreement and alternative vehicle and equipment requirements in lieu of those specified in Section 94 of this Act under the following terms and conditions:

- *(a) The rescue squad meets all of the requirements specified in Section 94 of this Act except for a local affiliation agreement, vehicle dedicated solely to rescue service, or possession of basic rescue equipment.*
- *(b) The director accepts, in writing, that the rescue squad will provide a needed rescue service either on a regional or statewide basis.*
- *(c) The rescue squad and the director execute an affiliation agreement containing the same information required in Section 94 of this Act for a local affiliation agreement.*
- *(d) The rescue squad maintains specialized rescue equipment appropriate to its mission as specified in the affiliation agreement or an annex thereto.*
- *(e) The requirement for a vehicle dedicated solely to rescue service may be waived, in writing, by the director upon determination that having a specific vehicle may be inappropriate to the mission of the rescue squad and that the rescue squad has adequate means of transportation enabling it to respond in an efficient manner.*
- *(f) The rescue squad, when requested to provide services, shall immediately notify and coordinate activities with*

the local director and with the local rescue squads serving the county in which the response is requested.

(2) Agreements specified in subsection (1) of this section shall be renewed annually.

(3) Rescue squads participating in the alternative program specified in this section shall be eligible to participate in rescue grant funding, state sponsored workers' compensation, training, and other programs of the division.

(4) Rescue squads operating under an agreement pursuant to this section may respond in any county covered by the agreement, or statewide if the agreement permits. Rescue squads covered under an agreement pursuant to this section may respond in counties not covered by the agreement only by request of the rescue squad or public officials in that county or upon request of the director or his designee.

SECTION 86. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) One or more persons with search dogs and handlers may constitute a specialized rescue squad using search dogs, under the terms and conditions as specified in writing by the director;

(2) Each handler of a dog shall have a vehicle available for the transportation of the dog and handler to the scene of a search;

(3) Each handler shall meet the training requirements of the statutes and administrative regulations relating to searching with dogs;

(4) The primary dog utilized in responding to the search shall be certified in accordance with the statutes and administrative regulations;

(5) Each handler shall have the equipment required by statute or administrative regulation for searching with dogs; and

(6) No single search dog handler shall engage in general rescue squad activity or specialized rescue squad activity unless he or she is a member of such an organization.

SECTION 87. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A general rescue squad shall be organized pursuant to Sections 84 or 85 of this Act and shall engage in one or more of the activities listed in the definition of a general rescue squad. A general rescue squad may engage in any other activity, other than ones prohibited by law or administrative regulation, if the activity is specified in its mission statement.

(2) A general rescue squad shall not engage in a specialized rescue squad activity as a primary mission unless it meets the requirements of subsection (3) of this section. A general rescue squad may engage in a specialized rescue squad activity as an initial responding unit within its service area, however, upon responding to such an activity, the highest officer in command of the response shall cause the immediate notification of the appropriate specialized rescue squad, the local director, and the duty officer of the Division of Emergency Management.

(3) A general rescue squad may engage in a specialized rescue squad activity if:

(a) That activity is specified in its mission statement;

(b) The rescue squad has twelve (12) persons including a commanding officer from within its membership of the rescue squad whose mission statement is to engage in the specialized rescue squad activity;

(c) The persons assigned to the specialized rescue squad activity meet the training requirements specified by statute and by administrative regulation;

(d) The rescue squad has the equipment required by administrative regulation to engage in the specialized rescue squad activity listed in its mission statement; and

(e) The rescue squad has a vehicle for transporting the required equipment to the scene.

SECTION 88. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A general rescue squad may engage in general and any specialized rescue squad activity utilizing one or more vehicles that hold all of the equipment required for both the general and specialized rescue squad activities specified in its mission statement.

(2) A specialized rescue squad may engage in one or more specialized rescue squad activities or general rescue squad activities utilizing one or more vehicles that hold all of the equipment required for the specialized, or general and specialized, rescue squad activities specified in its mission statement.

(3) The director may waive, in writing, the requirement, upon good cause shown, and upon written alternative plan submitted by a specialized rescue squad showing that adequate response equipment can be transported to the scene in an efficient manner without the necessity for a squad-owned vehicle.

SECTION 89. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A specialized rescue squad shall engage in one or more of the activities listed in the definition of a specialized rescue squad. A specialized rescue squad may engage in any other activity, other than the ones prohibited by law or

administrative regulation, if the activity is specified in its mission statement.

(2) A specialized rescue squad shall not engage in a general rescue squad activity as a primary mission unless it meets the requirements of subsection (3) of this section. A specialized rescue squad may engage in a general rescue squad activity as an initial responding unit within its service area, however, upon responding to that activity, the highest officer in command of the response shall cause the immediate notification of the appropriate general rescue squad for assistance, the local director, and the duty officer of the Division of Emergency Management.

(3) A specialized rescue squad may engage in a general rescue squad activity if:

- *(a) That activity is specified in its mission statement;*
- *(b) The rescue squad has twelve (12) persons including a commanding officer from within the membership of the specialized rescue squad whose mission statement is to engage in the general rescue squad activity;*
- *(c) The persons assigned to the general rescue squad activity meet the training requirements specified by statute and administrative regulation;*
- *(d) The rescue squad has the equipment required by administrative regulation to engage in general rescue squad activity as listed in its mission statement; and*
- *(e) The rescue squad has a vehicle for transporting the required equipment to the scene.*

SECTION 90. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

The director of the Division of Emergency Management shall appoint a state coordinator of search and rescue, who shall:

(1) Identify, inventory, and coordinate resources available for searches and rescues;

(2) Investigate and apply for grants and other financial assistance for searches and rescues;

(3) Maintain statistics regarding searches and rescues;

(4) Coordinate assistance during searches and rescues;

(5) Act as liaison with other states' operations involving searches and rescues;

(6) Provide assistance, upon request, during searches and rescues;

(7) Prepare a plan for searches and rescues;

(8) Prepare and distribute publications relating to searches and rescues;

(9) Establish, by administrative regulation, recommendations for organizations specializing in search and rescue, and certify organizations which meet those recommendations at the appropriate level;

(10) Maintain a list of all certified organizations and resources;

(11) Coordinate training in techniques of search and rescue; and

(12) Coordinate requests for federal assistance with the Air Force Rescue Coordination Center.

SECTION 91. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) The local search and rescue coordinator of each political subdivision, appointed in accordance with Section 102 of this Act, shall be responsible for coordinating and planning for local search and rescue activities. Operation of search and rescue activities shall be in accordance with the Kentucky Emergency Operations Plan, and the local emergency operations plan approved by the elected chief executives of each local political subdivision. The local search and rescue coordinator shall notify the duty officer of the Division of Emergency Management of all search and rescue missions. The local search and rescue coordinator shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision, and in registering emergency search and rescue workers. The chief of the appropriate law enforcement agency of each political subdivision may, upon request of the local director or local search and rescue coordinator, restrict access to a specific search and rescue area to personnel authorized by the local director. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. An unauthorized person shall not interfere with a search and rescue mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with the provisions of KRS Chapter 72.

SECTION 92. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

The Rescue Aid Program, which is administered pursuant to this chapter and appropriations in the state budget, is designed to:

(1) Reduce and prevent the loss of life by creating a better equipped, trained, and coordinated rescue force throughout the Commonwealth;

(2) Upgrade the capabilities of local rescue squads by providing financial assistance to be used to purchase equipment and obtain training; and

(3) Encourage the development of rescue squads where none exist.

SECTION 93. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) The director of the division shall have overall responsibility for policy, guidance, administration, implementation, and proper utilization of the rescue aid fund.

(2) The director shall serve as principal liaison between the division and local officials participating in programs affected by the rescue aid fund, and shall ensure proper utilization of the rescue aid fund.

(3) The director shall appoint an advisory committee consisting of seven (7) members, including no more than four (4) employees of the staff of the division to assist in making determinations related to rescue grant fund allocations, compliance with fund requirements, releasing equipment to rescue squads, and withdrawal and reallocation of equipment or funds. The members of the committee shall serve at the pleasure of the director, but for no more than four (4) years without reappointment, and shall serve without reimbursement, except when funded through the Emergency Management Assistance Program. The decisions of the committee shall be advisory only and shall not be binding upon the director.

(4) The director, with the advice of the advisory committee, shall make determinations relating to rescue grant fund applications, releasing equipment to rescue squads, and withdrawal and reallocation of equipment or funds.

(5) Area managers of the division shall fully explain rescue grant opportunities and requirements to local elected officials, local emergency management directors, and local rescue squads; review rescue grant fund applications, documentation and program submissions; and make recommendations to the director.

(6) Local emergency management directors shall be responsible for submitting rescue grant fund applications and documentation of expenditures to the division, as required, and shall facilitate and ensure the coordination of local rescue programs to meet the needs of the communities served.

(7) The chief officer of the rescue squad shall initiate rescue grant fund applications, submit all applications or documentation to the local emergency management director, and ensure that all funds are expended for items or services as approved.

SECTION 94. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

In order to ensure that rescue squads seeking funding under the rescue grant program achieve and maintain compliance with the provisions of this chapter, the following requirements shall be met:

(1) Each rescue squad shall develop written bylaws to specify as a minimum:

  (a) The mission of the rescue squad.

  (b) The election or appointment, succession, and term of officers.

  (c) Financial accounting and property accountability.

  (d) Administrative procedures.

  (e) Definition of active membership in the squad.

(2) Each rescue squad shall develop written standard operating procedures which specify as a minimum:

  (a) Procedures and rules for notification and response to emergencies.

  (b) Procedures for all operations and response activities of the squad in accordance with the mission statement.

(3) A current copy of the bylaws and a current copy of all standard operating procedures shall be sent by the squad to the division. Amendments to the bylaws and standard operating procedures shall be sent to the division within ten (10) working days of their adoption. The division shall maintain a file of rescue squad bylaws and standard operating procedures. These files shall be public records. Copies of the bylaws and standard operating procedures of the squad, updated as required in this subsection, shall also be sent concurrently to the local emergency management director.

(4) Each rescue squad shall have a vehicle dedicated solely to rescue service. The make, model, year, vehicle identification number, and license number of each vehicle used by the squad solely for rescue service shall be supplied to the local emergency management director and to the division. When a new vehicle is put in service, or a vehicle is withdrawn from service, both the local director and the division shall be notified within ten (10) working days.

(5) A minimum of twelve (12) persons shall be identified by name as active members of the rescue squad.

(6) The active membership list of the rescue squad shall be submitted quarterly to the division through the area manager with a copy of the same list submitted concurrently to the local emergency management director.

(7) The active membership list shall be continuously maintained in an accurate and current status by the rescue squad, and shall be available for inspection by state and local government officials, employees, and the public.

(8) Rescue squads shall maintain a formal training program appropriate to accomplish the mission of the rescue squad.

(a) The training program shall consist of not less than two (2) hours of formal training per month. Actual rescue missions shall not constitute training.

(b) To be eligible for continued funding, each squad shall report not less than one hundred sixty-eight (168) man-hours of training for its members annually. This training shall be reported on the incident and training reports submitted pursuant to this chapter.

(c) Training at a rescue school provided by an emergency management agency or other appropriate training may be utilized to meet the requirements of subsection (2)(b) of this section.

(9) Rescue squads shall be formally affiliated with the local disaster and emergency services organization through the following means:

(a) Execution of a city or county order or ordinance, the adoption of a written search and rescue plan pursuant to Section 101 of this Act, and the promulgation of a written statement of affiliation as the local charter of authorization signed by the county judge/executive or mayor, the local emergency management director, and the chief rescue officer outlining a specific working agreement. The statement of affiliation shall be subject to annual renewal. No statement of affiliation shall be subject to automatic renewal; it shall be an affirmative process. The document shall include, as a minimum, call out authority, chain of command, the responsibilities of each concerned party, terms and conditions of the local charter of authorization to operate in the jurisdiction, and procedures for revocation of the local charter, and shall be reviewed by the chief elected official of the government signing it and the local director. Both shall certify, if signing the document, that they have reviewed the mission statement of the rescue squad and the statement of affiliation and that they find that the rescue squad possesses:

1. Adequate numbers of trained personnel to perform the mission;

2. Proper and adequate equipment, including at least all of the required equipment specified by administrative regulations of the division, to perform the mission, and that the equipment is in proper working order;

3. A rescue vehicle, dedicated solely to rescue purposes, which is adequate to perform the mission of the squad, and is in proper working order; and

4. Adequate command and control personnel, training, and policies to ensure that the squad can quickly and efficiently respond and perform its mission when called upon.

(b) Incorporation, into the statement of affiliation, of a finding by the chief elected official and the local director that, following review of the mission statement of the rescue squad and the statement of affiliation, the rescue squad is performing a function not performed by other agencies of government or private agencies or organizations. If other organizations are performing functions which are listed on the mission statement of the rescue squad, then the statement shall contain reasons why duplication of existing services of other organizations by the rescue squad is necessary; and

(c) Incorporation of the responsibilities of the rescue squad into the rescue services annex of the local emergency operations plan or other appropriate annex.

(10) If either the chief elected official or the local director declines to sign the statement of affiliation provided for in subsection (9) of this section, the rescue squad shall be without local charter and shall return to the division all equipment purchased with state funds. This return of equipment shall take place within five (5) days of the refusal of either designee to sign the statement of affiliation. Neither the chief elected official nor the local director shall be required to state a reason why they sign or decline to sign a statement of affiliation.

(11) When a rescue squad is not independent, but is incorporated within other emergency service agencies or divisions, such as a fire department or fire division, the squad members shall be available for and capable of performing rescue services not incidental to their primary mission.

(12) Rescue squads shall maintain a full complement of minimum equipment appropriate to the type of rescue to be undertaken. Minimum equipment lists and other requirements for rescue squads shall be promulgated by the director by administrative regulation.

(13) Rescue squads shall not assess fees or charges for any rescue activity.

SECTION 95. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A rescue grant fund project application shall be initiated by the chief rescue officer and forwarded to the local emergency management director. The local director shall review all applications for completeness and accuracy,

prioritize and consolidate the applications, and make recommendations thereon. In the absence of a local director, the county judge/executive shall fill this role.

(2) The local director shall forward all applications to the area manager of the division, who shall review them, make recommendations thereon, and forward documentation to the director.

(3) The director shall forward all applications to the advisory committee. The advisory committee shall meet during the months of April, August, and December on dates announced by the director, to assess applications and compliance and to make recommendations to the director with regard to allocations of funds, assessment of compliance, reallocations of funds, release of equipment, reallocation of equipment, and any other matters assigned by the director. The advisory committee shall:

- *(a) Hold only public meetings; and*
- *(b) Maintain written minutes reflecting the actions of the advisory committee. All applications on file and all other matters pending shall be reviewed during each session and recommendations made thereon to the director.*

(4) Requests for funding shall be evaluated by the following criteria:

- *(a) Meeting the minimum eligibility criteria of Section 84 or 94 and Section 85 of this Act, unless some aspect thereof has been waived as provided in Section 48 of this Act. In determining membership eligibility, no person may be counted as a member of more than one (1) rescue squad even though that person may be available to or a member of more than one (1) rescue squad. If possible, a squad of primary membership shall be determined and the person counted as a member of that squad. If this cannot be determined, the person shall not be counted as a member of any rescue squad;*
- *(b) Unit and individual training;*
- *(c) Number of rescue responses annually;*
- *(d) Population served;*
- *(e) Geographic area served;*
- *(f) Number, type, and location of other rescue squads in the geographic area served;*
- *(g) Equipment possessed by the squad; and*
- *(h) The extent to which the rescue squad integrates its activities with the local emergency management program of the area served.*

(5) The advisory committee shall forward the applications together with its recommendations thereon to the director for final decision and allocations of funds. The division's administrative officer shall ensure timely payment of the funds.

(6) The director shall maintain written reasons with regard to all funding decisions for a period of one (1) year from the time they are announced.

(7) The director shall provide applicants with written decisions with regard to their applications.

(8) Decisions and the reasons for any decisions regarding funding shall be made available to any person upon written request.

(9) The local emergency management director shall maintain file copies of all applications and decisions thereon for at least five (5) years.

SECTION 96. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) The rescue squad shall order or purchase with state or federal grant funds only the approved equipment, services, or training, and no other, within fifteen (15) days of the receipt of the grant funds and shall provide a copy of all paid invoices as well as proof of payment, (canceled check, cash paid receipt, or similar document), within ninety (90) days of the receipt of the grant funds. An extension of time periods may be granted for cause upon written application to the director. Requests for time extensions shall be submitted through the local emergency management director to the area manager, for transmittal to the director. The director may grant or deny extensions based upon need. Any funds not encumbered or expended during the grant period shall be returned to the division, unless authorized in writing by the director to make additional purchases with encumbered funds.

(2) All equipment purchased with rescue aid funds shall be selected from the minimum equipment list unless an exception is approved by the director. Optional items shall not be approved until all items on the required list have been acquired.

(3) The rescue squad shall be accountable to the Commonwealth of Kentucky for all equipment purchased in whole or in part with rescue aid funds, and shall ensure the storage or positioning of all equipment within the geographical boundaries of the Commonwealth at all times, except when being utilized on an out-of-state mission approved by the

division . All equipment with a purchase price of three hundred dollars ($300) or more shall be assigned a serial number provided by the division which shall be engraved on the equipment. After five (5) years from the date of purchase, all equipment costing less than three hundred dollars ($300) shall be released to the squad. Equipment costing in excess of three hundred dollars ($300) may be released to the squad after approval has been granted by the director. Squads requesting release of equipment shall define in writing the rationale and justification for the release.

(4) Permission to dispose of unserviceable, obsolete, or damaged items, which have not been released to the squad pursuant to subsection (3) of this section, purchased in whole or in part with rescue aid funds, may be granted by the director. Requests for this action shall be submitted through the local emergency management director to the area manager for transmittal to the director.

(5) When a rescue squad is disbanded, loses its local charter to operate, or otherwise becomes, in the determination of the director, incapable of performing its duties as provided in Section 94 of this Act, all equipment purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, shall revert to the division for reallocation. If local funds were used to pay for a portion of the equipment or the equipment has depreciated, the squad may return the equipment to the division or repay an amount determined appropriate by the director. The option of repayment shall exist only upon the disbanding, loss of local charter, or determination of inability of the squad to perform its duties.

(6) In making determinations with regard to equipment which a rescue squad possesses either for funding or accountability purposes, equipment personally owned by members of a rescue squad shall not be counted for any purpose. Personally owned equipment shall not be used to fulfill the requirements of the minimum equipment list for the squad.

(7) Equipment which has been purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, shall be subject to inspection upon twenty-four (24) hours notice, by the local emergency management director, an area manager, or any other employee of the division.

(8) An inspection shall be made when accountable items are reported damaged, in need of replacement, or where there is evidence of misuse. Inspections may also be made upon the request of the local director, an area manager, or the director.

(9) An annual inspection of equipment purchased in whole or in part with rescue aid funds, and which has not been released to the squad pursuant to subsection (3) of this section, may be conducted by the local director, or an area manager. The review shall be made to ensure accountability, or proper maintenance and utilization of the equipment.

(10) All funds provided pursuant to Sections 92 to 98 of this Act shall be subject to state audit and rescue squads shall cooperate fully to provide necessary documentation and other support required for the audit.

(11) A rescue squad aggrieved by a decision of the division to withdraw funds or equipment allocated to the rescue squad pursuant to subsection (5) of this section may appeal the decision in the manner provided in Section 47 of this Act.

SECTION 97. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A report shall be made by the chief officer of the rescue squad to the local director and the area manager of the division within forty-eight (48) hours when:

(a) Accountable equipment purchased with rescue aid funds is lost, stolen, or damaged; or

(b) The squad is disbanded, loses its local charter to operate, or is otherwise rendered incapable of performing its duties as outlined in this chapter.

(2) Local emergency management directors shall maintain a cumulative list of equipment owned by each rescue squad participating in the rescue aid program, denoting those items purchased with rescue aid funds. An updated list shall be submitted to the area manager each time a rescue aid grant application is submitted.

(3) Rescue squads participating in the rescue aid program or who receive workers' compensation benefits through the division shall complete quarterly incident and training reports reflecting rescue squad activity or the lack thereof, as appropriate, and submit these reports to the local director and the area manager within ten (10) days from the end of the quarter. The area manager shall transmit the reports together with any comments thereon to the director within ten (10) days of receipt thereof.

SECTION 98. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) A rescue squad taxing district may be created by the fiscal court pursuant to KRS 65.182 or 65.188.

(2) The ad valorem tax that may be imposed for the maintenance and operation of the district shall not exceed ten cents ($0.10) for each one hundred dollars ($100) of the assessed valuation of all property in the district.

(3) Upon the creation of a district, the district so established shall be a taxing district within the meaning of Section 157

of the Constitution of Kentucky.

(4) The district ad valorem taxes shall be collected by the sheriff in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected for the district.

(5) The affairs of the district shall be controlled by a board of directors appointed by the county judge/executive, the mayor of an urban-county, or the chief executive of another local government with the approval of the legislative body of that jurisdiction.

(a) If the district consists of one (1) county, three (3) directors shall be appointed;

(b) If the district consists of two (2) counties, the county judge/executive of the county having the greater portion of the population of the district shall appoint two (2) directors and the county judge/executive of the other county shall appoint the third director;

(c) If the district consists of more than two (2) counties, the county judge/executive of the county having the greatest portion of the population of the district shall appoint two (2) directors and the county judge/executive of the remaining counties comprising the district shall each appoint one (1) director;

(d) The legislative body of each city of the first three (3) classes, or if there is no such class of city, the city of the highest class located within the district shall appoint one (1) additional director.

(6) The board of directors shall be appointed within thirty (30) days after the establishment of the district. Each board member shall reside within the county or city for which appointed. Directors shall be appointed for terms of two (2) years each, except that initially the appointing authority shall appoint a minority of the board members for one (1) year terms. Subsequent terms shall all be for two (2) years. Any vacancies shall be filled by the appointing authority for the unexpired term.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided by KRS 65.007.

(9) The board of directors shall provide rescue service to inhabitants of the district and may:

(a) Purchase vehicles and all other necessary equipment and employ trained personnel who meet all federal and state requirements;

(b) Adopt rules and regulations necessary to effectively and efficiently provide rescue service for the district. Rules and regulations shall be consistent with the provisions of this chapter;

(c) Employ persons to administer the daily operations of the rescue service;

(d) Compensate employees of the district at a rate determined by the board;

(e) Apply for and receive available funds from the state and federal government for the purpose of maintaining or improving the rescue service of the district; and

(f) Acquire by bequest, gift, grant, or purchase any real or personal property necessary to provide rescue service.

(10) A district shall be eligible for grants pursuant to Section 95 of this Act and workers' compensation coverage pursuant to Section 99 of this Act.

(11) Tax revenues of a rescue squad taxing district shall be used only for rescue services as described in this chapter. Tax revenues of a rescue squad taxing district shall be distributed among all rescue squads in the district in proportion to the percentage of the district's population served by each squad.

SECTION 99. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

Rescue squad organizations or members of them or individuals associated with them for the purposes of receiving workers' compensation benefits paid by the division shall be covered by those benefits when performing emergency preparedness, response, or recovery functions, with the following limitations:

(1) Rescue squad organizations and individuals shall not be covered when performing fundraising functions, unless all proceeds of the function are to be dedicated to the administration or operation of the rescue squad organization.

(2) Rescue squad organizations and individuals shall not be covered when involved in any law enforcement activity, including security or evidence recovery, except for traffic control at an accident scene or the recovery of evidence by diving or dragging when the assistance is requested by law enforcement authorities.

(3) Rescue squad organizations and individuals shall not be covered when the primary purpose of the mission is the provision of emergency medical care or first aid. However, coverage shall be extended when:

(a) A rescue squad provides emergency medical transportation when inclement weather or rough terrain prevents a regular ambulance from providing transportation. Transportation may be provided only upon request of the appropriate emergency medical services agency. The distance of travel shall be restricted to the nearest appropriate medical facility or ambulance;

(b) Additional personnel or equipment are required to supplement existing emergency medical services which have been overtaxed at an incident which is subsequently declared as an emergency by any official authorized to make such a determination; or

(c) A rescue squad provides first aid, or emergency medical care is rendered as a necessary function during a rescue mission, and the primary purpose of the mission was the rescue and not the provision of emergency medical care.

(4) Rescue squad organizations or individuals shall not be covered when engaging in firefighting unless the firefighting was performed as a secondary function to protect persons involved in a rescue mission.

(5) Rescue squad organizations or individuals shall not be covered when engaging in hazardous materials response, containment, cleanup, or other operations related to hazardous materials, when operating at the hazardous materials technician or hazardous materials specialist level of operation as defined in 29 C.F.R. 1910.120.

(6) No person shall be covered unless enrolled on a workers' compensation enrollment form and filed with the area manager of the division, except when the magnitude of an emergency, or a training exercise, is so great that a local emergency management director must solicit additional workers. At these times, the local director may develop and maintain a list of workers, to include names, Social Security account numbers, missions assigned, and dates covered and submit a copy of the list to the area manager of the division within twenty-four (24) hours of the conclusion of the emergency or the training exercise.

SECTION 100. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:

(a) The local emergency management director; and

(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.

(2) Any search for a missing minor, as that term is defined in KRS 2.015, shall be reported to the Kentucky State Police by the person or organization to whom the missing minor is reported. The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

(3) Any search and rescue mission which has lasted four (4) hours without the subject being located, shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

(a) The search and rescue mission is discontinued; or

(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.

(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.

(6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.

SECTION 101. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

(1) Each local search and rescue coordinator shall assist local rescue squads in developing a comprehensive written search and rescue plan which shall address as a minimum:

(a) Direction and control responsibilities or incident command system procedures;

(b) Notification and reporting procedures and requirements;

(c) Call-out procedures;

(d) Resource identification;

(e) Coordination of resources;

(f) Mutual aid agreements;

(g) Training requirements for search and rescue responders and managers;

(h) Coordination of all on-scene operations with other local, state, and federal agencies; and

(i) The provision of copies of topographical maps for search team members.

(2) The local search and rescue plan shall be incorporated into the rescue services annex of the local emergency operations plan and submitted for review and adoption as part of the local emergency operations plan.

(3) The local search and rescue plan shall be a public record and shall be updated not less than annually. A copy of the plan shall be filed with the division not less than ten (10) days after each update or amendment.

SECTION 102. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

Each local emergency management director shall assume the duties of, or appoint with the concurrence of the fiscal court, city governing body, urban-county council, or governing body of other local government, a local search and rescue coordinator who shall be responsible for the coordination of all search and rescue resources and operations during all search and rescue missions within the city or county. The position of local search and rescue coordinator may be a volunteer position. The local search and rescue coordinator, if appointed by the local emergency management director, shall serve a similar term not to exceed four (4) years, but may be reappointed for a similar term upon the expiration of a previous term. The local search and rescue coordinator may be removed for cause at any time by the local director, with the concurrence of the fiscal court, city governing body, urban-county council or governing body of other local government. The local search and rescue coordinator shall successfully complete training in search management, search techniques, and incident command required by the division by administrative regulation.

SECTION 103. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

The Division of Emergency Management may promulgate administrative regulations which address minimum training requirements and standards of response for individuals, agencies, and organizations who respond to the following search and rescue missions:

(1) Searching for missing, lost, or overdue person or persons;

(2) Cave rescue;

(3) Dive rescue and recovery of drowning victims;

(4) Inland water search, rescue, and recovery;

(5) Search dogs and handlers; testing and certification;

(6) Urban search and rescue; and

(7) High angle or rough terrain rescue and recovery.

SECTION 104. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

Any person violating any provision of this chapter or any administrative regulation promulgated or order issued pursuant to this chapter for which another penalty is not specified shall be guilty of a Class A misdemeanor.

Section 105. KRS 186.1721 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, any member of a local disaster and emergency services organization or volunteer rescue squad in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that the license plates shall bear the inscription "Disaster and Emergency Services," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as furnished by the county judge/executive, mayor, or *local emergency management director*[~~disaster and emergency services coordinator~~], and the payment of a fee of twenty-five dollars ($25). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the disaster and emergency services license plate originally issued to the applicant.

(2) Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized by subsection (1) of this section, the owner or lessee shall remove the disaster and emergency services license plate and return it and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the Transportation Cabinet for use on any other vehicle of the same class and category owned or leased by the same applicant to whom a disaster and emergency services license plate was originally issued.

(3) Upon termination of membership as a member of the disaster and emergency services organization or volunteer rescue squad, an applicant to whom a disaster and emergency services license plate was issued under this section shall, within thirty (30) days, return the plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the disaster and emergency services license plate and in annually issuing a current year renewal decal to be affixed to the disaster and emergency services license plate, the county clerk shall receive from

each applicant a fee of three dollars ($3). A two dollar ($2) fee shall be charged for the reissuance of the license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(6) Registration under this section shall expire December 31 of each year.

(7) The secretary of the Transportation Cabinet shall provide forms necessary to carry out the purpose of this section.

Section 106. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, Department of Corrections, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by ***an emergency management***[~~a civil defense~~] agency; any vehicle used to respond to emergencies or to transport a patient with a critical medical condition if the vehicle is operated by a Cabinet for Human Resources licensed ambulance provider or medical first response provider; any vehicle commandeered by a police officer; or any motor vehicle used by a paid or volunteer fireman or paid or volunteer ambulance personnel ***or a paid or volunteer local emergency management director*** while responding to an emergency or to a location where an emergency vehicle is on emergency call.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 107. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad, or publicly owned ***emergency management***[~~civil defense~~] agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating, or oscillating lights.

(4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(5) All Department of Corrections vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle. The Department of Corrections vehicles shall not be equipped with or use a siren, whistle, or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(6) Red flashing lights may be used by school buses.

(7) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(8) Vehicles used as command posts at incidents may be equipped with and use when on scene, a green rotating, oscillating, or flashing light. This light shall be in addition to the lights and sirens required in this section.

Section 108. KRS 304.18-060 is amended to read as follows:

"Blanket health insurance" is that form of health insurance covering groups of persons as enumerated in one (1) of the following subsections under a policy or contract issued to:

(1) Any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on ***the***[~~such~~] common carrier or ***the***[~~such~~] means of transportation.

(2) An employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

(3) A college, school or other institution of learning***;***~~[,]~~ a school district or districts***; a***~~[, or]~~ school jurisdictional unit***;***~~[,]~~ or to the head, principal, or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers, or employees.

(4) A religious, charitable, recreational, educational or civic organization~~[,]~~ or branch thereof, which shall be deemed the policyholder covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(5) A sports team, camp, or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials, or supervisors.

(6) A volunteer fire department, first aid, ***emergency management agency***~~[civil defense]~~ or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by ***the***~~[such]~~ policyholder.

(7) A newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

(8) An association, including a labor union, which has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by ***the***~~[such]~~ policyholder.

(9) Any other person or group covering any other risk or class of risks which, in the discretion of the commissioner, may be properly eligible for blanket health insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks, or both.

Section 109. KRS 342.140 is amended to read as follows:

The average weekly wage of the injured employee at the time of the injury or last injurious exposure shall be determined as follows:

(1) If at the time of the injury which resulted in death or disability or the last date of injurious exposure preceding death or disability from an occupational disease:

(a) The wages were fixed by the week, the amount so fixed shall be the average weekly wage;

(b) The wages were fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(c) The wages were fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52);

(d) The wages were fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the injury.

(e) The employee had been in the employ of the employer less than thirteen (13) calendar weeks immediately preceding the injury, his average weekly wage shall be computed under paragraph (d), taking the wages (not including overtime or premium pay) for that purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(f) The hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where the services are rendered by paid employees.

(2) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

(3) In the case of volunteer firemen, police, and ***emergency management agency***~~[civil defense]~~ members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(4) If the employee was a minor, apprentice, or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(5) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of the employment prior to the injury, his wages from all the employers shall be considered as if earned

from the employer liable for compensation.

(6) The term "wages" as used in this section and KRS 342.143 means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, and fuel or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer to the extent the gratuities are reported for income tax purposes.

(7) The commissioner shall, from time to time, based upon the best available information, determine by administrative regulation industries which ordinarily do not have a full working day for five (5) days in every week. In those industries, compensation shall be computed at the average weekly wage earned by the employee at the time of injury reckoning wages as earned while working full time. "At full time" as used in this subsection means a full working day for five (5) working days in every week regardless of whether the injured employee actually worked all or part of the time.

Section 110. KRS 342.640 is amended to read as follows:

The following shall constitute employees subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employees, whether paid by the employer or employee, if employed with the knowledge, actual or constructive, of the employer;

(2) Every executive officer of a corporation;

(3) Every person in the service of the state or any of its political subdivisions or agencies, or of any county, city of any class, school district, drainage district, tax district, public or quasipublic corporation, or other political entity, under any contract of hire, express or implied, and every official or officer of those entities, whether elected or appointed, while performing his official duties shall be considered an employee of the state. Every person who is a member of a volunteer ambulance service, fire, or police department shall be deemed, for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly-enrolled volunteer member or trainee of ***an emergency management agency***[~~the civil defense corps of this state~~], as established under KRS ***Chapters 39A to 39E***[~~Chapter 39~~], shall be deemed, for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky National Guard, while the person is on state active duty as defined in KRS 38.010(4), shall be deemed, for the purposes of this chapter, to be in the employment of this state;

(4) Every person performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury; and

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter, the person shall be deemed an employee of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of an independent agency, of each publisher whose newspapers he sells or distributes.

Section 111. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers. It shall be unlawful for any car, automobile, or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for the car, to have, or be equipped with the sets or apparatus even though the car is owned by an officer. This section shall not apply to any automobile or vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the Federal Communications Commission or other federal agency having the authority to license same. Nothing in this section shall preclude a probation and parole officer employed by the Department of Corrections from carrying on his person or in a private vehicle while conducting his official duties an authorized, state-issued portable radio apparatus capable of transmitting or receiving signals.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited, or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited, or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;

(b) A commercial or educational radio or television station, licensed by the Federal Communications Commission, at its place of business; or

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; ~~[disaster and]~~emergency ***management agency***~~[services]~~ personnel authorized in writing by the~~[state]~~ director of ***the division of***~~[disaster and]~~ emergency ***management***~~[service]~~ (for state personnel) or chief executive of the city or county (for their respective personnel); a person holding a valid license issued by the Federal Communications Commission in the amateur radio service; peace officers authorized in writing by the head of their law enforcement agency, Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

(5) The secretary of the Finance and Administration Cabinet is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other nonpolice persons for utilization in the N.O.A.A. weather radio system.

Section 112. KRS 65.060 is amended to read as follows:

As used in KRS 65.008, 65.009, 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.008, 65.009, 65.065 and 65.070 shall apply to any board, commission, or special district created pursuant to the following statutes: ***Sections 84 and 98 of this Act***~~[KRS 39.700]~~, 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 74.010 to 74.416; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to 108.180; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 154.50-301 to 154.50-346; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 179.700 to 179.735; KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.453.

Section 113. The following KRS sections are repealed:

39.400 Necessity for and purpose of provisions for disaster and emergency response.

39.401 Definitions.

39.407 Powers of adjutant general.

39.408 Executive orders.

39.409 Emergency powers of Governor, mayors, and county judges/executive.

39.410 Compensation for property taken for temporary use -- Notice to owner of property where title is taken.

39.411 Board of Claims to fix compensation if amount is in dispute.

39.412 Appeal from award of Board of Claims.

39.413 Procedure for payment of compensation.

39.414 Local mutual aid arrangements -- Assistance in negotiation of reciprocal agreements with adjoining states or their political subdivisions.

39.415 Local government to establish organizations -- Functions -- Areawide organizations -- Director, term, qualifications, duties, salary.

39.416 Disaster and emergency response powers of counties, urban-county governments, and cities.

39.417 Powers of county, metropolitan government, and city employees.

39.418 Reimbursement for loss, damage or expense -- Notice of claim -- Reimbursement where aid rendered outside state.

39.419 Owners of real estate used for sheltering persons not civilly liable for death, injury, loss or damage.

39.423 Investigative powers of Governor -- Subpoena.

39.424 Traffic control plans -- Executive orders.

39.425 Powers of Governor concerning lease or loan of state property and permitting state employees to engage in disaster and emergency response activities -- Permission for judicial and legislative employees.

39.426 Powers of political subdivision to contract with state for lease or loan of property.
39.427 Orders, rules and regulations.
39.429 Power of arrest for violation of orders, rules or regulations.
39.430 Authority to receive services, equipment, supplies, materials and funds from federal government.
39.431 Political activity forbidden.
39.432 Qualifications and oath of persons connected with disaster and emergency response organizations.
39.433 Exemption from liability.
39.450 Authority to execute Interstate Emergency Management and Disaster Compact.
39.460 Governor's actions under compact.
39.470 Policy for disaster and emergency services organizations.
39.480 Allocation of state funds.
39.481 Purpose of supplementary state fund.
39.482 State officers and their duties -- Funds to local units.
39.483 Criteria for funding local disaster and emergency services organizations.
39.484 Request for financial aid -- Review and evaluation criteria.
39.485 Reimbursement -- Claims and equipment purchase.
39.486 Performance evaluation -- Appeal process.
39.487 Requests for waiver of requirements.
39.490 Administration of supplementary state funding -- Power to make rules and regulations.
39.700 Rescue squads -- Rescue squad taxing districts.
39.710 Rescue Aid Program -- Purpose.
39.720 Rescue aid fund -- State officials' duties -- Local officials' duties.
39.730 Requirements for rescue grant funding -- Written standard operating procedures -- Bylaws -- Rescue vehicle -- Membership -- Training -- Affiliation -- Service fee prohibited.
39.740 Rescue and project funding -- Application and review process.
39.750 Purchase disposal and inspection of equipment -- Audit of funds.
39.760 Reports of lost, stolen or damaged equipment, or loss of capability to operate -- Quarterly incident and training reports -- Cumulative list of equipment.
39.770 Workers' compensation coverage -- Limitation on -- Enrollment.
39.780 Procedures for rescue squad taxing districts.
39.800 Kentucky Emergency Response Commission established -- General purposes.
39.805 Definitions.
39.810 Membership -- Meetings -- Reimbursement for meetings.
39.815 Duties of commission -- Appointment of local committees mandatory.
39.817 Fees -- Trust and agency account.
39.820 Permissive activities of commission.
39.825 Administrative support by Division of Disaster and Emergency Services -- Protection of federal funds -- Issuance of administrative regulations.
39.830 Local planning district boundaries.
39.835 Local emergency planning committees -- Relationship to state commission.
39.840 Duties of local emergency planning committees -- Terms of members -- Enforcement procedures.
39.845 Identification of covered facilities -- Reporting to public agencies.
39.850 Naming of facility representative -- Liaison duties.
39.855 Organizations required to participate in local planning process -- Adoption of local ordinances.
39.860 Plan development, approval and review.
39.865 Response to be consistent with plan.
39.870 State agency response.
39.875 Claims to be filed with Board of Claims.

39.880	Report of release of substance.
39.885	Establishment of warning and notification standards.
39.890	Report of inventories and locations of extremely hazardous substances.
39.895	Additional information may be required.
39.900	Reports available to public -- Protection of trade secrets.
39.905	KRS 39.800 to 39.905 supplemental to other laws.
39.990	Penalties.

Section 114. For the purposes of KRS Chapter 39E, the existing members of the Kentucky Emergency Response Commission created by KRS 39.810 shall continue in office for the remainder of their existing terms as the membership of the Kentucky Emergency Response Commission established by Sections 58 to 60 of this Act.

Section 115. In lieu of the official seal of the Commonwealth of Kentucky, the division shall be authorized to design, display and affix the distinctive seal and markings of the Division of Emergency Management on any and all state vehicles owned, leased or operated by the division for official purposes and operated by personnel of the division.

Representative Geveden moved that the House concur in Senate Committee Substitute to **HB 453**. Agreed.

Representative Geveden moved that **HB 453**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 24, 1998 roll call on **HB 453** - Appendix.) **HB 453**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 453**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 45, HB 122, HB 141, HB 166, HB 257, HB 306, HB 336, HB 397, HB 426, HB 440, HB 457, HB 488, HB 490, HB 623, HB 537, HB 648, HB 651, HB 654, HB 717**, and **HCR 77** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. **(The Speaker signed the above listed bills on March 24, 1998, however, due to a clerical error, the time that the Speaker signed these bills was not recorded.) HB 45, HB 122, HB 141, HB 166, HB 257, HB 306, HB 336, HB 397, HB 426, HB 440, HB 457, HB 488, HB 490, HB 623, HB 537, HB 648, HB 651, HB 654, HB 717**, and **HCR 77** delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 1998 at 4:13 p.m.

Orders of the Day (Continued)

HB 564, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 564** is as follows:

AN ACT relating to real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

A principal broker shall return an associate's license to the commission upon request. A principal broker that fails to return a license to the commission upon request shall be in violation of KRS 324.160(1)(r).

Section 2. KRS 324.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

   (a) ***"Real estate brokerage" means a single, multiple, or continuing act of selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, commission, compensation, or other valuable consideration***~~["Broker" means any person who for a fee, commission, compensation, or other valuable consideration sells or offers for sale, buys or offers to buy, deals in time shares or options, negotiates the purchase, sale, or exchange of real estate, engages in property management, leases or offers to lease, rents or offers for rent, or refers or offers to refer for the purpose of securing prospects, any real estate or the improvements thereon for others, but shall not apply to a person whose only compensation for negotiating the purchase, sale, or lease of an interest or interests in mineral rights consists of an interest in the rights that are the subject of the purchase, sale, or lease]~~;

   (b) "Commission" means the Kentucky Real Estate Commission;

(c) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the commission;

(d) "Principal broker" means a ***person licensed as a*** broker ***under KRS 324.046***[~~as defined in paragraph (a) of this subsection~~] who, in addition to performing acts ***of real estate brokerage*** or transactions comprehended by that definition, is the single broker responsible for the operation of the ***company with which he or she is associated***[~~office or offices~~];

(e) "Real estate" means real estate in its ordinary meaning and includes ***timeshares, options,*** leaseholds***,*** and other interests less than leaseholds;

(f) "Sales associate" means any person associated with a Kentucky-licensed principal broker ***who is licensed under KRS 324.046(2) and performs acts of real estate brokerage under the direction and control of the principal broker***[~~for performing acts or transactions comprehended by the definition of "broker" as defined in paragraph (a) of this subsection and licensed under this chapter~~];

(g) "Approved real estate school" means:

1. A school that has been given a certificate of approval by the State Board for Proprietary Education ***and***[~~in addition to a certificate of approval by~~] the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the State Board for Proprietary Education and the commission; or

2. A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(h) "Accredited real estate school" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward an associate degree or a baccalaureate degree to those students successfully completing a course in real estate;[~~ and~~]

(i) "Property management" means the[~~ marketing, leasing, or~~] overall management of real property for others for a fee, commission, compensation, or other valuable consideration***, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation; and***

(j) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage.

(2) One act for a fee, commission, compensation, or other valuable consideration of buying or selling real estate of or for another; offering for another to buy, sell, or exchange real estate; leasing, renting, or offering to rent real estate; referring or offering to refer real estate for the purpose of securing prospects; or dealing in options or time sharing shall constitute the person performing, offering, or attempting to perform the act as a broker or sales associate.

Section 3. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person to act as a broker or real estate sales associate or to advertise or assume to act as a broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission.

(2) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(3) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may pay a commission to or split fees with a broker licensed outside of Kentucky who represents an out-of-state client.

(4) No sales associate licensed in Kentucky shall supervise another licensed sales associate or manage an office, except by permission of the commission and when acting on the death of the principal broker.

(5) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where ***the commission is located or where*** the unlawful activity took place.

Section 4. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency[~~ and trustworthiness~~] of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, ***an***[~~no~~]

examination shall ***not*** be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at ***the*** times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.

Section 5. KRS 324.046 is amended to read as follows:

(1) Every applicant for initial licensure as a broker shall have successfully completed not less than twenty-one (21) academic credit hours or the equivalent with at least twelve (12) hours in real estate courses from an accredited or approved real estate school and shall have been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior to application.

(2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or ***their*** equivalent in real estate courses from an accredited or approved real estate school.

(3) Proof of the academic credit hours shall be an official transcript from the attended university and a sworn notarized affidavit signed by both the applicant and his ***or her*** principal broker or other documentation satisfactory to the commission. The applicant may file a complaint with the commission if the principal broker unjustly refuses to sign the affidavit.

(4) The commission may reduce the two (2) year experience requirement for applicants for a broker's license to one (1) year, if the applicant has an associate degree in real estate or a baccalaureate degree with a major in real estate.

(5) ***Persons***[~~Any person~~] licensed under the real estate laws of this state prior to June 19, 1976***:***[~~,~~]

(a) ***Who have continuously maintained an active license since that date*** shall not be subject to any educational changes in this chapter or subject to any continuing education requirements***; and***

(b) ***Who have not continuously maintained an active license since that date may be exempted from continuing education requirements if the commission determines their qualifications merit such an exemption***.

Section 6. KRS 324.090 is amended to read as follows:

(1) Licenses shall expire on the thirty-first day of March of each year. The commission shall ***renew***[~~issue~~] a[~~ new~~] license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the annual fees required. ***A new license***[~~No applicant for renewal~~] shall ***be mailed only if the licensee's name, address, status, or***[~~change broker~~] affiliation ***changes***[~~between March 1 through March 31~~].

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. The license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 7. KRS 324.115 is amended to read as follows:

Every broker licensed under KRS 324.045 shall[~~ have and~~] maintain a definite place of business in this state***, except a***[~~. Provided, however, that if the~~] broker ***who*** is a nonresident ***shall***[~~, it is~~] not ***be required***[~~mandatory~~] to maintain an active place of business in this state if ***he or she maintains*** a business place[~~ is maintained~~] in the state of original licensure***, unless this provision conflicts with the commission's agreement of reciprocity with the state of original licensure***.

Section 8. KRS 324.117 is amended to read as follows:

(1) Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company ***listed on the licensee's real estate license*** or the name of the principal broker and a designation indicating that ***the licensee***[~~he~~] is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising.

(2) The name of a deceased broker may remain a part of the firm name.

(3) No[~~ sales~~] associate[~~ or nonlicensed individual~~] may have his ***or her*** name in the firm name.

(4) Any sales associate or broker affiliated ***with***[~~under~~] a principal broker shall advertise in the[~~ firm~~] name ***of the real estate company listed on the associate's or broker's real estate license*** or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.

Section 9. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative, and shall on the verified written complaint of any person, investigate the actions of any broker or sales associate or any person who assumes to act in such capacity, if the complaint, or complaint together with other evidence presented in connection with it, makes out a prima facie case. It may suspend or revoke any license for grounds stated in KRS 324.160.

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of documents;

(b) Administer oaths;

(c) Examine witnesses; and

(d) Pay appropriate witness fees.

Section 10. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license or levy fines not to exceed five hundred dollars ($500), or both, and place any licensee on probation for a period of up to twelve (12) months or require successful completion of academic credit hours in real estate courses from an accredited or approved real estate school or issue a formal reprimand or order a licensee to pay restitution in an amount to be determined by the commission after a hearing, as a condition of continued licensure, for any of the following causes:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him ***or her*** nor acquire an interest therein without making his ***or her*** true position clearly known in writing on the sales contract or offer to purchase;

2. Before a real estate licensee buys, sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his ***or her*** principal broker at the time the ***brokerage agreement***[~~listing~~] was obtained. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of that principal broker;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into ***the licensee's***[~~his~~] possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his ***or her*** client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending the imposition of sentence***, or failing to report a felony conviction, or plea of guilty to a felony, or an "Alford" plea to a felony to the commission***; or soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate, or acting in the dual capacity of broker and undisclosed principal in the transaction;

(k) Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(l) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property***, or attempting to obtain a brokerage agreement*** with an owner or lessor knowing that the owner or lessor had a written outstanding contract granting exclusive agency in connection with the property to another real estate broker;

(m) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(n) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(o) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

(p) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(3);

(q) Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(r) Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(s) Gross negligence.

(2) Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (1)(r) of this section.

(3) No unlawful act or violation of any provision of this chapter by any ***affiliated licensee***~~[associate]~~ of the principal broker ***shall***~~[may]~~ be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation ***and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. A principal broker's failure to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter***.~~[The commission through means of a formal hearing may fine, suspend, or revoke the license of the principal broker for failing to exercise adequate supervision over the activities of licensed affiliates.]~~

(4) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 11. KRS 324.410 is amended to read as follows:

The purposes of the real estate education, research, and recovery fund shall be as follows:

(1) If a licensee, acting in the capacity of a licensee, has been duly found guilty of fraud in the violation of one (1) or more of the provisions of KRS 324.160, and upon the conclusion of a final order entered by the commission, or by the courts, if appealed, the commission may pay to the aggrieved person or persons an aggregate amount not to exceed twenty thousand dollars ($20,000) ***per claimant with combined payments to all claimants*** against any one (1) licensee ***not to exceed fifty thousand dollars ($50,000)***, if the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order and if the amount or amounts of money in question are certain and liquidated.

(2) The commission shall maintain a minimum level of four hundred thousand dollars ($400,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the state employees' retirement system and the interest from the investments shall be deposited to the credit of the real estate education, research, and recovery fund. Sufficient liquidity shall be maintained so that there shall be money available to satisfy any and all claims which may be processed through the commission through the means of formal administrative hearing as outlined in this chapter.

(3) The commission, in its discretion, may use any and all funds in excess of the four hundred thousand dollars ($400,000) level, regardless of whether it is from the real estate education, research, and recovery fund fees or accrued interest thereon, for the following purposes:

(a) To carry out the advancement of education and research in the field of real estate for the benefit of those licensed under the provisions of this chapter and the improvement and making more efficient the real estate industry;

(b) To underwrite educational seminars, caravans, and other forms of educational projects for the use and benefit generally of real estate licensees;

(c) To establish a real estate chair or courses at Kentucky state institutions of higher learning for the purpose of making the courses available to licensees and the general public who may seek them on a college or university level;

(d) To contract for a particular research project in the field of real estate for the Commonwealth of Kentucky;

(e) To sponsor, contract for, and to underwrite other educational and research projects of a similar nature having to do with the advancement of the real estate field in Kentucky; and

(f) To receive recommendations and to cooperate and work with the Kentucky Association of Realtors and other real estate groups for the enlightenment and advancement of the real estate licensees of Kentucky.

(4) Within sixty (60) days after the end of each fiscal year, the commission shall mail to each licensee a statement of income and expenses of the real estate education, research, and recovery fund, the details of which have been approved by the secretary of the Finance and Administration Cabinet.

Representative Miller moved that the House concur in Senate Committee Substitute to **HB 564**. Agreed.

Representative Miller moved that **HB 564**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 24, 1998 roll call on **HB 564** - Appendix.) **HB 564**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Miller moved that the vote by which **HB 564**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 632, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 632** is as follows:

AN ACT relating to engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of ***Licensure***~~[Registration]~~ for Professional Engineers and Land Surveyors;

(2) "Engineer" means a person who is qualified ***to engage in the practice of professional engineering*** by reason of ***special***~~[this]~~ knowledge ***and use*** of***:***

(a) The mathematical, physical, and engineering sciences;~~[mathematics, the physical sciences,]~~and

(b) The principles ***and methods*** of engineering ***analysis and design***, acquired by ***engineering***~~[professional]~~ education and practical ***engineering*** experience~~[, to engage in the practice of professional engineering]~~;

(3) ***"Professional engineer" means a person who is licensed as a professional engineer by the board;***

(4) "Engineering" ***means***~~[includes]~~ any ***professional*** service or creative work, the adequate performance of which requires engineering education, training, and experience ***as an engineer.***

(a) Engineering shall include:

1. ~~[in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as]~~Consultation, investigation, evaluation, planning, ***certification,*** and design of engineering works and systems***;***

a. Engineering design and engineering work associated with design/build projects;

b. ~~[, including]~~Engineering works and systems which involve earth materials, water ***or***~~[,]~~ other liquids, and gases***;***

c. ~~[,]~~Planning the use of land***, air,*** and waters***; and***

d. Performing engineering surveys and studies;~~[, and]~~

2. The review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces ***this***~~[such]~~ service or work***,*** either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems, or projects with which the public welfare or the safeguarding of life, health, or property is concerned, when ***that***~~[such]~~ professional service ***or work*** requires the application of engineering principles and data***;***

3. The teaching of engineering design courses in any program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;

4. The negotiation or solicitation of engineering services on any project in this state, regardless of whether the persons engaged in the practice of engineering:

a. Are residents of this state;

b. Have their principal place of business in this state; or

c. Are in responsible charge of the engineering services performed; and

5. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering that does not relate to the location or determination of land boundaries.

(b) Engineering shall~~[It does]~~ not include the ***professional services***~~[work ordinarily]~~ performed by persons who***:***

1. Develop or administer construction project safety programs, construction safety compliance, construction safety rules or regulations, or related administrative regulations; or

2. Only operate or maintain machinery or equipment~~[operate or maintain machinery or equipment, such as locomotive, stationary, marine, or power plant operators, nor work embraced within the practice of land surveying]~~;

(5)~~[(4)]~~ "Practice of engineering" ***means the performance of any professional service included in subsection (4)(a) of this section***~~[includes all professional services included in subsection (3) of this section, together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one (1) or all of these duties, or whether they are performing them in person or~~

~~as the directing heads of offices or organizations~~];

(6)[~~(5)~~] *"Engineer in training" means a person who has passed the Fundamentals of Engineering Examination and is otherwise qualified to earn experience toward licensure as a professional engineer;*

(7) "Responsible charge of engineering" means direct control and personal supervision of engineering, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved engineering program;

(8) "Land surveyor" means a person who is qualified to engage in the practice of land surveying by reason of special knowledge and use of mathematics, the physical and applied sciences, and the principles and methods of land surveying, acquired by education and practical experience in land surveying;

(9) "Professional land surveyor" means a person who is licensed as a professional land surveyor by the board;

(10) "Land surveying" means any *professional* service or work, the adequate performance of which *requires the education, training, and experience as a land surveyor.*

(a) Land surveying shall include, but not be limited to, the following:

1. [~~involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of~~]Measuring and locating*, establishing, or re-establishing* lines, angles, elevations, natural and man-made features in the air, on the surface *and immediate subsurface* of the earth, within underground workings, and on the beds *or surfaces* of bodies of water *involving the:*

a. Determination or establishment of the facts of size, shape, topography, and acreage;

b. Establishment of photogrammetric and geodetic control that is published and used for the determination, monumentation, or description of property boundaries;

c. Subdivision, division, and consolidation of lands;

d. Measurement of existing improvements, including condominiums, after construction and the preparation of plans depicting existing improvements, if the improvements are shown in relation to property boundaries;

e. Layout of proposed improvements, if those improvements are to be referenced to property boundaries;

f. Preparation of physical written descriptions for use in legal instruments of conveyance or real property and property rights;

g. Preparation of subdivision record plats;

h. Determination of existing grades and elevations of roads and land;

i. Creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them; and

j. Certification of documents; and

2. The negotiation or solicitation of land surveying services on any project in this state, regardless of whether the persons engaged in the practice of land surveying:

a. Are residents of this state;

b. Have their principal office or place of business in this state; or

c. Are in responsible charge of the land surveying services or work performed.

(b) Land surveying shall not include:

1. The measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or the state of Kentucky;

2. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering, if the land surveying work does not relate to the location or determination of land boundaries; or

3. The design of grades and elevations of roads and land;

(11) "Practice of land surveying" means the performance of any professional service included in subsection (10)(a) of this section;

(12) "Land surveyor in training" means a person who has passed the Fundamentals of Land Surveying Examination and is otherwise qualified to earn experience toward licensure as a professional land surveyor;

(13) "Responsible charge of land surveying" means direct control and personal supervision of land surveying, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved land surveying

program;

(14) "Business entity" means a corporation, partnership, or firm;

(15) "Offer to practice" means:

(a) A promise or commitment to engage in any act directly related to engineering or land surveying;

(b) Undertaking to engage in the practice of engineering or land surveying; or

(c) Any claim, express or implied, by any person representing himself or herself to be a professional engineer or professional land surveyor;

(16) "Certification" means affixing a seal or stamp, signature, and date by a professional engineer or professional land surveyor to represent that the services or work addressed therein was performed by that professional engineer or professional land surveyor according to his or her knowledge, information, and belief, and that it was completed in accordance with applicable standards of practice. "Certification" shall not mean a guaranty or warranty, either express or implied;

(17) The "Fundamentals of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(18) The "Fundamentals of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(19) The "Principles and Practice of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying; and

(20) The "Principles and Practice of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying

[~~for the purpose of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions thereof, including the topography, alignment, and grades of streets and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys;~~

~~(6) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying;~~

~~(7) "Practice of land surveying" shall include the performance of any professional service included in subsection (5) of this section. "Offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out to the general public as possessing the ability and qualifications to perform land surveying within the terms of this section, KRS 322.200, 322.230 to 322.250, and 322.420 to 322.460;~~

~~(8) "Engineer in training" means a person who has passed a written examination in the fundamentals of engineering acceptable to the board; and~~

~~(9) "Land surveyor in training" means a person who has passed a written examination in the fundamentals of land surveying acceptable to the board~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 322 IS CREATED TO READ AS FOLLOWS:

On the effective date of this section, all registered engineers and registered land surveyors shall be deemed licensed by the board until their registration expires. First-time licensure of these registrants shall be processed as a license renewal under Section 14 of this Act.

Section 3. KRS 322.020 is amended to read as follows:

(1) Unless licensed as a professional engineer, no person shall*:*

(a) Engage in the practice of engineering;[~~ practice or ~~]

(b) Offer to practice engineering*;* or

(c) [~~ land surveying, or ~~]Use, assume*,* or advertise in any way any title or description tending to convey the impression that he *or she* is *a professional*[~~an~~] engineer*.*

(2) Unless licensed as a professional[~~ or~~] land surveyor, *no person shall:*

(a) Engage in the practice of land surveying;

(b) Offer to practice land surveying; or

(c) Use, assume, or advertise in any way any title or description tending to convey the impression that he or she is a professional land surveyor[~~unless he has been registered under this chapter~~].

Section 4. KRS 322.030 is amended to read as follows:

KRS 322.020 shall not apply to:

(1) ***(a)*** [~~The engaging in engineering as~~]A pupil[~~ of~~] or ***engineer in training engaging in engineering*** under the direction of a ***professional***[~~registered~~] engineer, if ***that***[~~such~~] practice does not include responsible charge of ***engineering; or***

(b) [~~design or supervision as a principal, or the engaging in land surveying as~~]A pupil ***or land surveyor in training engaging in land surveying***[~~of or~~] under the direction of a ***professional***[~~registered~~] land surveyor, if ***that***[~~such~~] practice does not include responsible charge ***of land surveying***[~~or supervision~~];

(2) The practice of ***engineering or land surveying by*** officers and employees of the United States government while engaged in engineering or land surveying for the government;

(3) The practice of engineering or land surveying by a person on property ***he or she leases or owns***[~~leased or owned by the person~~] unless***:***

(a) The practice involves the public safety***,***[~~ or public~~] health***, or welfare;***

(b) The land surveying relates to the location or determination of any existing or proposed land boundaries; or

(c) [~~ to~~]The ***practice***[~~performance~~] of engineering[~~ that~~] relates solely to the design or fabrication of manufactured products;

(4) An engineer or land surveyor engaged solely as an officer or employee of a privately owned public utility or of a ***business entity***[~~corporation~~] engaged in interstate commerce as defined in the Interstate Commerce Act (24 Stat. 379) as amended;

(5) A licensed architect who engages in ***the practice of*** engineering[~~ practice as an~~] incident to the practice of ***architecture***[~~his own profession~~].

Section 5. KRS 322.040 is amended to read as follows:

(1) A person shall qualify for ***licensure***[~~registration~~] as a professional engineer ***by meeting the requirements set forth in paragraph (a) or (b) of this subsection.***

(a) A person shall qualify if he or she has:

1. ***Graduated from***[~~who is a graduate of~~] an engineering ***program***[~~curriculum~~] of four (4) years or more ***accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent***[~~approved~~] by the board***;***

2. [~~and with a specific record of an additional~~]Four (4)[~~ years~~] or more ***additional years*** of progressive experience in engineering projects ***or teaching*** of a grade and character which indicates to the board that the applicant ***is***[~~may be~~] competent to practice engineering***; and***

3. A passing score on:

a. [~~. Each applicant must pass a written examination in the fundamentals of engineering acceptable to the board and a written examination in~~]The Principles and Practice of Engineering ***Examination; and***

b. [~~acceptable to the board. The board may admit to~~]The Fundamentals of Engineering Examination***. The board may allow students***[~~ applicants~~] enrolled in the final year of an undergraduate engineering ***program to take this examination. Upon passing the examination the applicant shall be designated an engineer in training***[~~curriculum. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice engineering in this Commonwealth, provided the applicant is otherwise qualified. In counting years of experience, the board may give credit, not in excess of one (1) year, for satisfactory graduate study in engineering~~].

(b) If an instructor in an engineering program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or an engineering program deemed equivalent by the board is not eligible for the exemption under subsection (2) of this section, the instructor shall have four (4) years from the date of hire to qualify for licensure by showing that he or she has:

1. Graduated from an engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, or an engineering program deemed equivalent by the board;

2. Four (4) or more additional years of progressive experience in engineering projects or teaching of a grade and character which indicates to the board that the applicant is competent to practice engineering;

3. Passed the Principles and Practice of Engineering Examination; and

4. Either passed the Fundamentals of Engineering Examination or graduated from a board-approved doctoral engineering degree program.

(2) ***For the purpose of teaching engineering design courses only, an instructor who, on the effective date of this Act,***

holds a tenured or tenure-track position in an engineering program defined in subsection (4)(a)3. of Section 1 of this Act shall be exempt from the licensure requirements of Section 3 of this Act for the period that instructor is continuously employed by the institution offering that program. However, an instructor may apply and shall qualify for licensure as a professional engineer during this exempt period if he or she:

(a) Has graduated from an engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or an engineering program deemed equivalent by the board;

(b) Has graduated from a board-approved doctoral engineering degree program, with an additional three (3) years or more of progressive experience in engineering projects or teaching of a grade and character which indicate to the board that the applicant is competent to practice engineering; and

(c) Has passed the Principles and Practice of Engineering Examination.

(3) A person shall qualify for licensure as a professional land surveyor if he or she has:

(a) Passed the Fundamentals of Land Surveying Examination and is thereby designated a land surveyor in training according to the conditions set forth in paragraph (c) of this subsection;

(b) Passed the Principles and Practice of Land Surveying Examination; and

(c) Met one (1) of the following requirements[~~Compliance with the requirements of any one (1) of paragraphs (a), (b) or (c) of this subsection shall qualify an applicant for registration as a land surveyor~~]:

[~~(a) Any person holding a certificate of registration to engage in the practice of land surveying issued to him by the proper authorities of any state, territory, possession of the United States, District of Columbia, or any foreign country, based upon requirements and qualifications appearing in his application, which, in the opinion of the board, are equal to, or higher than, the requirements required to be registered in this state to practice land surveying;~~]

1.[~~(b)~~] *Graduation*[~~Any graduate~~] from *a board-approved program in land surveying from a college or university*[~~an engineering or surveying curriculum of not less than four (4) years, at an institution approved by the board~~], followed by not less than four (4) years of progressive experience[~~ in land surveying~~] under the direct supervision of a[~~ registered and~~] practicing *professional* land surveyor*.*

a. The experience required by the provisions of this subparagraph shall indicate that the applicant was in charge of the accuracy and correctness of the land surveying work being performed;

b. Work experience acquired as part of the education requirement shall not be construed as experience; and

c. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination during their final year in the program;

2. Graduation from a four (4) year program other than land surveying accredited by one of the Commissions of the Accreditation Board for Engineering and Technology, followed by not less than six (6) years of practical experience in land surveying under the direct supervision of a practicing professional land surveyor.

a. Four (4) years of the experience required by this subparagraph shall indicate that the applicant was in charge of the accuracy and correctness of the land surveying work being performed;

b. Work experience acquired as a part of the education requirements shall not be construed as experience; and

c. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of two (2) years of land surveying experience following graduation from the program;

3. Graduation from a two (2) year board-approved program in land surveying followed by not less than six (6) years of progressive experience under the direct supervision of a practicing professional land surveyor.

a. The experience required by this subparagraph shall indicate that the applicant was in charge of the accuracy and correctness of the land surveying work being performed;

b. Work experience acquired as a part of the education requirement shall not be construed as experience; and

c. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of two (2) years land surveying experience following graduation from the program;[~~, and who shall pass a written examination in the fundamentals of surveying, acceptable~~

~~to the board, and a written examination in the principles and practices of land surveying, acceptable to the board; and~~]

4.[~~(c)~~] ***Until June 30, 2001,***[~~Any person possessing~~] eight (8) or more years of progressive active experience in the practice of land surveying under the direct supervision of a [~~registered and~~] practicing ***professional*** land surveyor, and ***passing scores on***[~~who shall pass a written examination in~~] the Fundamentals of ***Land*** Surveying ***Examination***[~~, acceptable to the board,~~] and[~~ a written examination in~~] the Principles and ***Practice***[~~practices~~] of Land Surveying ***Examination; or***

5. Effective July 1, 2001, graduation from high school, or the equivalent, followed by not less than ten (10) years of progressive experience under the direct supervision of a practicing professional land surveyor and passing scores on the Fundamentals of Land Surveying Examination and the Principles and Practice of Land Surveying Examination. Six (6) years of the experience required by this subparagraph shall indicate that the applicant was in charge of the accuracy and correctness of the land surveying work performed. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of four (4) years of land surveying experience[~~, acceptable to the board~~].

[~~(3) In the consideration of the qualifications of applicants, engineering teaching may be construed as engineering experience.~~]

(4) As it may apply to the experience qualifications for engineers or land surveyors***:***

(a) Teaching land surveying courses at the postsecondary level may earn an applicant a maximum credit of two (2) years' experience;

(b) The board may grant up to one (1) year of engineering experience credit for satisfactory graduate study in engineering and up to one (1) year of land surveying experience credit for satisfactory graduate study in land surveying;

(c) [~~,~~]The satisfactory completion of each year ***as a full-time student*** of ***a board-approved program***[~~an approved curriculum~~] in ***civil*** engineering or land surveying[~~ in a school or college approved by the board as of satisfactory standing,~~] without graduation, ***may***[~~shall~~] be considered as equivalent to ***one (1)***[~~ a~~] year of experience required by ***subsection (3)(c)3., 4., and 5.***[~~subsections (1) and (2)(b)~~] of this section***;***

(d) [~~.~~]Graduation ***from***[~~in~~] a ***program***[~~curriculum~~] other than ***as provided in subsection (3)(c)1., 2., and 3. of this section***[~~engineering or land surveying~~] from a college or university of recognized standing may be considered as equivalent to two (2) years of experience required by ***subsection (3)(c)3., 4., and 5.***[~~subsections (1) and (2)(b)~~] of this section***;***

(e) [~~, but ~~]No applicant shall receive credit for more than four (4) years of experience ***based on***[~~because of~~] undergraduate educational qualifications.

(5) The[~~ mere~~] execution as a contractor of work designed by ***a professional***[~~an~~] engineer or the supervision of the construction of ***that***[~~such~~] work as a foreman or superintendent ***may***[~~shall not~~] be considered ***experience in the*** practice ***of***[~~in~~] engineering.

(6) Any person having the necessary qualifications prescribed in subsections (1)***,***[~~ and~~] (2)***, and (3)*** of this section shall be eligible ***to apply*** for ***licensure, even if the applicant is***[~~registration although he may~~] not[~~ be~~] practicing ***the***[~~his~~] profession at the time of [~~making his ~~]application.

Section 6. KRS 322.050 is amended to read as follows:

To[~~No person shall~~] be eligible for ***licensure, an applicant shall be***[~~registration unless he is~~] of good character and reputation***.*** ***No applicant***[~~, nor~~] shall[~~ any person~~] be eligible ***who:***

(1) [~~if he ~~]Has been convicted of any felony involving moral turpitude***, fraud, or deceit;***

(2) Engages in conduct likely to deceive or defraud the public; or

(3) Is adjudged mentally disabled by a court of competent jurisdiction.

Section 7. KRS 322.060 is amended to read as follows:

(1) ***(a)*** A ***business entity shall not***[~~corporation, partnership, or firm may~~] engage in the practice of engineering in this state ***unless:***

1. [~~if ~~]At least one (1) of ***its***[~~the~~] principals, officers, or a designated employee[~~ of the corporation, partnership, or firm~~] is ***a professional engineer who is*** in ***responsible***[~~direct~~] charge of the engineering work***;*** and

2. The board has issued a permit to the business entity[~~ is registered as an engineer in this state~~].

(b) To apply for a permit, a business entity[~~ Corporations, partnerships, or firms~~] offering engineering services in this state shall file with the board, on a form prescribed by the board*:*

1. *The*[~~, a list of~~] names *and*[~~,~~] addresses[~~, and registration numbers~~] of all principals and officers*;*

2. [~~, as well as~~]The *license number of* principals*,*[~~ or~~] officers*, and employees who are professional engineers*[~~duly registered to practice engineering in this state who are~~] in *responsible*[~~direct~~] charge of the *business entity's* practice *of engineering* in this state*;*

3. [~~, and~~]A *list*[~~listing~~] of locations of all offices in this state at which the *business entity*[~~corporation, partnership, or firm~~] offers professional engineering services*;*

4. A statement of qualifications for the permit; and

5. References as required by administrative regulations promulgated by the board.[~~ The corporations, partnerships, or firms shall advise the board in writing within thirty (30) days of any change of status.~~]

(c) If more than one (1) place of business is maintained in this state*, a professional* [~~an~~]engineer[~~ registered in this state~~] shall be in *responsible*[~~direct~~] charge of the engineering work for each office.

(d) A professional engineer who renders occasional, part-time, or consulting engineering services to or for a *business entity required to hold a permit from*[~~firm required to file with~~] the board *under*[~~pursuant to~~] this section shall not be designated as the person in *responsible* charge *of the engineering work*[~~for the professional activity of the firm~~].

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status in those items listed in paragraph (b) of this subsection.

(f) Individual professional engineers providing engineering services in their own names, or architectural firms offering engineering services incident to their practice, shall be excluded from the provisions of this subsection.

(2) (a) A business entity shall not engage in the practice of land surveying in this state unless:

1. At least one (1) of its principals, officers, or a designated employee is a professional land surveyor in direct responsible charge of the land surveying work; and

2. The board has issued a permit to the business entity.

(b) To apply for a permit, a business entity offering land surveying services in this state shall file with the board, on a form prescribed by the board:

1. The names and addresses of all principals and officers;

2. The license numbers of the principals, officers, and employees who are professional land surveyors in responsible charge of the practice of land surveying in this state;

3. A list of locations of all offices in this state at which the business entity offers professional land surveying services;

4. A statement of qualifications for the services relating to the permit; and

5. References as required by administrative regulations promulgated by the board.

(c) If more than one (1) place of business is maintained in this state, a professional land surveyor shall be in responsible charge of the land surveying work for each office.

(d) A professional land surveyor who renders occasional, part-time, or consulting services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the land surveying activity of the firm.

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status.

(f) Individual professional land surveyors providing land surveying services in their own names shall be excluded from the provisions of this subsection.

(3) (a)[~~(2)~~] After a *business entity*[~~corporation, partnership, or firm~~] applies for a *professional engineering or professional land surveying* permit and pays the proper fees, the board shall review the application[~~,~~] and, upon approval, shall issue a permit.

(b) The board may[~~ refuse to issue a permit, or~~] suspend*,*[~~ or~~] revoke*, or refuse to issue* a permit for violation of the code of professional practice and conduct.

(c) The expiration date and renewal period for each permit and renewal procedures shall be established by administrative regulations *promulgated by the board*.[~~ No corporation, partnership, or firm shall engage in providing engineering services without obtaining a permit under this section. Individual registered engineers providing engineering services in their own names or architectural firms offering engineering services incidental~~

~~to their practice shall be excluded from the provisions of this section.~~]

(4) (a)[~~(3)~~] No ***business entity***[~~corporation, partnership, or firm~~] shall be relieved of responsibility for the conduct or acts of its agent, employees, or officers by reason of its compliance with this section.

(b) No individual practicing professional engineering ***or professional land surveying*** shall be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a ***business entity holding a permit***[~~corporation, partnership, or firm licensed~~] under this section.

(5)[~~(4)~~] Disciplinary action against a ***business entity holding a permit***[~~corporation, partnership, or firm licensed~~] under this section shall be administered in the same manner and on the same grounds as disciplinary action against ***an individual***[~~a licensed~~] professional engineer ***or professional land surveyor***.

(6)[~~(5)~~] The Secretary of State shall not issue a certificate of incorporation or a certificate of registration as a foreign corporation authorized to do business in this state to a firm which includes in its name or, among objects for which it is established, any of the words, "engineer," "engineering," ***"surveyor," "surveying," "land surveying,"*** or any modification or derivation thereof, unless the[~~ board has issued a certificate or letter from the board with its~~] application for incorporation or registration with the Secretary of State ***includes a certificate or letter from the board***.

Section 8. KRS 322.070 is amended to read as follows:

Applications for ***professional engineer or professional land surveyor licenses***[~~registration~~] shall be on forms prescribed and furnished by the board ***and***[~~,~~] shall contain***:***

(1) Statements made under oath, showing the applicant's education and a detailed summary of ***the applicant's***[~~his~~] technical ***experience;***

(2) [~~work, and shall contain~~]Not less than five (5) references, of which at least three (3) shall be from ***professional*** engineers or ***professional*** land surveyors***,*** as may be appropriate, having personal knowledge of the applicant's engineering or land surveying experience***;***

(3) If the primary language of the applicant is not English, evidence of English proficiency shall be included with the license application. The criteria to establish English proficiency shall be determined by administrative regulations promulgated by the board; and

(4) Any other information as the board may require by administrative regulation.

Section 9. KRS 322.080 is amended to read as follows:

(1) Examinations shall be held at times and places determined by the board ***by promulgation of administrative regulations***.

(2) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering or land surveying works so as to insure the safety of life, health***,*** and property.

Section 10. KRS 322.090 is amended to read as follows:

An applicant failing an examination may apply for reexamination after six (6) months. Reexaminations shall be granted upon payment of a fee ***to be*** determined by ***administrative regulations promulgated by*** the board.[~~ An applicant who has failed three (3) examinations shall not apply for reexamination within twenty-four (24) months of his last preceding examination.~~]

Section 11. KRS 322.100 is amended to read as follows:

The ***license fees***[~~registration fee~~] for ***professional*** engineers ***and professional***[~~or~~] land surveyors shall be established by ***administrative*** regulation ***promulgated by***[~~of~~] the board. If the board refuses to issue ***a license***[~~registration~~] to any applicant***,*** the initial fee deposited shall be retained as an application fee.

Section 12. KRS 322.110 is amended to read as follows:

(1) The board shall ***issue a license authorizing the practice of engineering or land surveying to any applicant who has met the respective requirements set forth in this chapter.***

(2) All licenses issued under this subsection shall be signed by the chairman and the secretary of the board, under the seal of the board. Each license shall bear the full name of the licensee, the license number, and one of the following designations:

- ***(a) "Professional Engineer";***
- ***(b) "Professional Land Surveyor";***
- ***(c) "Professional Engineer, Inactive";***
- ***(d) "Professional Engineer, Retired";***
- ***(e) "Professional Land Surveyor, Inactive"; or***
- ***(f) "Professional Land Surveyor, Retired."***

(3) The designations in paragraphs (c), (d), (e), and (f) of subsection (2) of this section shall be defined in

administrative regulations promulgated by the board.

(4) (a) A valid professional engineer or professional land surveyor license shall be prima facie evidence that the licensee is entitled to all rights, privileges, and responsibilities of a professional engineer or a professional land surveyor.

(b) A valid license bearing the designation "inactive" or "retired" shall be prima facie evidence that the licensee is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor, except the right to practice[~~register upon payment of the registration fee required by KRS 322.100 any applicant who, in its opinion, has satisfactorily complied with the provisions of this chapter~~].

[~~(2) The board may designate the various recognized branches of engineering and classify the applicant in the branch in which he may practice.~~]

Section 13. KRS 322.120 is amended to read as follows:

[~~(1)~~]The board may, ***by promulgation of administrative regulations, establish requirements and fees for licensure by reciprocity for those applicants who:***

(1) Hold a current license or[~~upon application and payment of a fee to be established by regulation of the board, register any person who holds a~~] certificate of [~~qualification or~~]registration ***to engage in the practice of engineering or land surveying*** issued[~~ to him~~] by[~~ proper authority of the National Council of Engineering Examiners, the National Engineering Certification Committee or~~] any state***, territory, or possession*** of the United States***, the District of Columbia,*** or any ***foreign*** country***; and***

(2) Submit proof that the requirements and qualifications supporting that license or certificate:

(a) Are not in conflict with the provisions of this chapter; and

(b) Equal or exceed this state's requirements in effect on the date of issuance. However, the land surveyor applicant may be required to take examinations, as the board deems necessary, to determine the competency to engage in the practice of land surveying in this state. The examination shall include questions on laws, procedures, and practices pertaining to land surveying in this state[~~, if the requirements under which the certificate of qualification or registration was issued do not conflict with this chapter and are of a standard not lower than those provided in KRS 322.040~~].

[~~(2) The board may make all regulations governing the matter of reciprocity with other states and countries.~~]

Section 14. KRS 322.160 is amended to read as follows:

(1) ***Licenses for individuals and permits for business entities shall be valid for not more than two (2) years from the date of issuance, unless renewed.***

(2) The executive director shall notify every licensee and permit holder at least one (1) month in advance of the pending expiration date.

(a) Renewal notices shall be mailed to the licensee or permit holder at their last known address and state the amount of the renewal fee.

(b) All renewals shall be completed on or before June 30 of the year of expiration[~~The secretary-treasurer of the board shall notify every registrant of the date of the expiration of his registration and the amount of the fee required for its renewal. Such notice shall be mailed at least one (1) month in advance of the expiration date. Renewals may be effected at any time prior to the expiration date by the payment of a fee to be established by regulation of the board~~].

(c) Each licensee or permit holder is responsible for notifying the board of any address change.

(3) The failure[~~ of any registrant~~] to renew[~~ his registration~~] shall not deprive ***a licensee or permit holder***[~~him~~] of the right of renewal, but the fee to be paid for the renewal[~~ of registration~~] shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. Any ***licensee or permit holder***[~~person~~] who fails to renew[~~ his registration~~] within one (1) year after expiration shall furnish the board with***:***

(a) Satisfactory evidence of qualification of continued practice. However, the board may require reexamination***; and***

(b) If the licensee or permit holder is a professional land surveyor, evidence of completion of continuing professional development hours for professional land surveyors as required by Section 26 of this Act.

(4)[~~(2)~~] ***No licensee shall be***[~~All persons who are~~] required to pay renewal fees to the board[~~ shall not be required to pay such fees~~] during the time ***the licensee is on active duty***[~~such persons are actively serving~~] in the Armed Forces of the United States.

(a) Any ***licensee***[~~person~~] who has previously paid any renewal fee covering a period ***of time spent on active duty***[~~during which he was actively serving in the Armed Forces of the United States~~] shall, upon filing with the board a copy of his ***or her*** discharge, be granted a ***license*** renewal[~~ registration~~] without the payment of any fee.

(b) The free renewal shall be for as many ***license***[~~registration~~] years as[~~ were served by~~] the ***licensee was on active duty***[~~registrant in the Armed Forces~~] and which were covered in whole or in part by the previous payment of a renewal fee.

(c) The continuing professional development requirement for land surveyors under Section 26 of this Act shall be waived for those years the licensee was on active duty.

Section 15. KRS 322.170 is amended to read as follows:

(1) A new ***license or permit***[~~registration certificate~~] may be issued ***to replace any license or permit that was lost, destroyed, or mutilated***, subject to the ***administrative regulations promulgated by***[~~rules of~~] the board[~~, to replace any certificate lost, destroyed or mutilated~~].

(2) A license or permit may be reissued to replace any license or permit that was previously revoked, subject to Section 19 of this Act.

Section 16. KRS 322.180 is amended to read as follows:

The board ***may***[~~shall have the power to suspend,~~] refuse to ***issue, refuse to*** renew, ***suspend,*** or revoke ***a license***[~~the registration of any registrant~~], ***may*** reprimand, place on probation, or ***admonish a licensee, may impose a*** fine ***on a licensee*** not to exceed one thousand dollars ($1,000), ***or may impose any combination of these penalties, when it finds that an applicant or licensee***[~~any registrant who is found guilty by the board of~~]:

(1) ***Engaged in any***[~~The~~] practice of[~~ any~~] fraud or deceit in obtaining ***a license***[~~registration~~];

(2) ***Engaged in***[~~Any~~] gross negligence, incompetence***,*** or misconduct in the practice of engineering or ***land*** surveying;

(3) ***Violated any provision of this chapter, the administrative regulations promulgated by the board, or the code of professional practice and conduct adopted by the board and incorporated in administrative regulations;***

(4) Employed, procured, or induced a person not licensed to practice engineering or land surveying in this state;

(5) Aided or abetted a person not licensed to practice engineering or land surveying in this state;

(6) Been granted a license upon a mistake of material fact;

(7) Been convicted by a court of law of a felony involving moral turpitude;

(8) Become a chronic or persistent alcoholic or has become drug-addicted so that continued practice is dangerous to clients or to the public safety;

(9) Developed a physical or mental disability or other condition so that continued practice is dangerous to clients or to the public safety;

(10) Violated any order of suspension or the terms or conditions of any order of probation issued by the board;

(11) Had a license or registration certificate to practice as an engineer or land surveyor denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state;

(12) Engaged in conduct likely to deceive or defraud the public;

(13) Presented or attempted to use as his or her own the license, seal, or stamp of another;

(14) Falsely impersonated any other licensee;

(15) Attempted to use an expired, suspended, or revoked license;

(16) Provided certification for any plan, specification, plat, report, or physical description not prepared by him or her or under his or her direct supervision; or

(17) Applied the seal, stamp, signature, or title block of another professional engineer or professional land surveyor to a plan, specification, plat, report, or physical description that was not prepared by the other professional engineer or land surveyor[~~Having been convicted by a court of law of a felony involving moral turpitude; or~~

~~(4) Violation of the code of professional practice and conduct which has been adopted by the board~~].

Section 17. KRS 322.190 is amended to read as follows:

Any person ***or organization, including the board upon its own volition, may file with the executive director of the board a written complaint alleging violation of any provision of this chapter. The executive director shall cause the complaint to be investigated.***

(1) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.

(2) If the investigation reveals evidence supporting the complaint, the executive director shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before refusing to renew, suspending, revoking, reprimanding, imposing probation or an administrative fine, or any combination of actions regarding any license under the provisions of this chapter.

(a) At any time during the investigation or hearing process, the board may accept a written assurance of voluntary compliance from the licensee which effectively deals with the complaint.

(b) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(3) After denying an application under the provisions of this chapter, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(4) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(5) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B[~~or any organization may prefer written charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of professional practice and conduct against any registrant. They shall be filed with the executive director of the board~~].

Section 18. KRS 322.200 is amended to read as follows:

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six (6) months after the date on which they are preferred, but a charged party may waive his ***or her*** right to a hearing within six (6) months. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 19. KRS 322.220 is amended to read as follows:

A person whose license has been revoked may petition the board to reissue. The board shall investigate the petition and may reissue the license upon a finding that the person has complied with any terms prescribed by the board and is again able to competently practice[~~The board, subject to its rules, may reissue a registration certificate to any person whose registration has been revoked~~].

Section 20. KRS 322.230 is amended to read as follows:

(1) The State Board of ***Licensure***[~~Registration~~] for Professional Engineers and Land Surveyors shall consist of ***nine (9)***[~~seven (7)~~] members appointed by the Governor and two (2) ex officio members each with full voting rights. The ex officio members shall be the dean of the College of Engineering of the University of Kentucky and the dean of the Speed Scientific School of the University of Louisville.

(2) The term of each member of the board shall be four (4) years. Each member shall hold office until the expiration of the term[~~ for which he is appointed~~], or until a successor has been appointed and has qualified.

(3) [~~Every member shall, ~~]Before beginning ***a***[~~his~~] term of office, ***every member shall*** file with the Secretary of State ***a***[~~his~~] written oath for the faithful discharge of[~~ his~~] official duties.

(4) No member of the board shall serve as an employee of the board.

Section 21. KRS 322.240 is amended to read as follows:

(1) Each appointed member of the board shall be a citizen of the United States and shall have been a resident of this state for five (5) years.

(2) One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice of engineering or land surveying.

(3) Eight (8)[~~Six (6)~~] members of the board shall have been ***a registered or professional engineer or a registered or professional land surveyor*** engaged in the ***respective*** practice[~~ of the profession of engineering or land surveying~~] for at least twelve (12) years, and shall have been in responsible charge of important engineering or land surveying work[~~ or responsible charge of engineering or land surveying teaching~~] for at least five (5) years.[~~ One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. At no time shall more than two (2) members whose qualifications are based on responsible charge of engineering or land surveying teaching or more than two (2) members from the faculties of the engineering or land surveying colleges of the state be appointed to the board.~~]

(a) At least ***five (5)***[~~four (4)~~] members of the board shall ***have been***[~~be~~] registered ***or professional***[~~as~~] engineers ***in Kentucky for at least four (4) years prior to the date of their appointment;*** and

(b) At least ***three (3)***[~~two (2)~~] members ***of the board*** shall ***have been***[~~be~~] registered ***or professional***[~~as~~] land surveyors[~~. The engineer members of the board shall have been registered engineers in Kentucky for at least four (4) years prior to the date of their appointments. The land surveyor members of the board shall have been registered land surveyors~~] in Kentucky for at least four (4) years prior to the date of their

appointment[~~appointments~~].

Section 22. KRS 322.250 is amended to read as follows:

(1) ***Except as provided for in subsection (5) of this section, each land surveyor appointment to the board shall be made from a list of not less than three (3) nominees to be submitted to the Governor jointly by the Kentucky Society of Professional Engineers and the Kentucky Association of Professional Surveyors, with input from other professional societies. All other appointments to the board shall be made from a list of not less than three (3) nominees to be submitted to the Governor by the Kentucky Society of Professional Engineers with input from other professional societies.***

(2) The nominations shall be submitted to the Governor at least sixty (60) days prior to the appointment date.

(3) The term of office for all full-term appointments shall begin January 1.

(4) Board members shall be allowed to succeed themselves but shall be limited to not more than two (2) consecutive terms. A former member may be reappointed to the board if the member has not served in the preceding four (4) years.

(5) If a vacancy on the board occurs for any reason resulting in an unexpired term, if not filled within three (3) months by official action of the Governor, the board may appoint a provisional member to serve in the interim until the Governor acts.

(6) Every unexpired term shall be filled only for the remainder of that term[~~The Governor shall appoint not more than two (2) full-term members per year, with the exception of 1973, when he shall appoint four (4) members, two (2) for terms of three (3) years and two (2) for the full four (4) year term.~~

~~(2) Every member of the board shall receive a certificate of his appointment from the Governor.~~

~~(3) Every appointment to the board shall be made from a list of not less than three (3) nominees to be submitted to the Governor by the Kentucky Society of Professional Engineers.~~

~~(4) Every unexpired term shall be filled only for the remainder of that term.~~

~~(5) The nominations shall be submitted to the Governor at least thirty (30) days prior to the appointment date.~~

~~(6) The term of office of all full term appointments shall begin January 1.~~

~~(7) The appointees to the board shall be limited to not more than two (2) consecutive terms~~].

Section 23. KRS 322.260 is amended to read as follows:

(1) Every year the board shall elect a chairman, a vice chairman and a secretary-treasurer.

(2) The secretary-treasurer ***or any other officer or designee required to handle expenditures or disburse funds of the board*** shall give a surety bond to the board in a sum determined by the board. The premium on the bond shall be paid as a proper, necessary expense of the board.

Section 24. KRS 322.270 is amended to read as follows:

[~~When attending to the work of the board, ~~]Each member shall receive compensation as ***promulgated***[~~established~~] by ***administrative*** regulation of the board and approved by the appropriate legislative body. ***Official duties include***[~~This includes~~] meetings of committees of the board and time spent in necessary travel. Further, members shall be reimbursed for costs for ***all*** actual ***and necessary expenses***[~~travel, incidental, clerical and all expense necessarily~~] incurred in carrying out ***their official***[~~the~~] duties ***as board***[~~of the~~] members[~~ of the board~~].

Section 25. KRS 322.280 is amended to read as follows:

(1) The board shall hold at least ***four (4)***[~~two (2)~~] regular meetings each year. Special meetings shall be held ***if***[~~whenever~~] the bylaws provide. Notice of all meetings shall be given in the manner provided by the bylaws.

(2) ***Six (6)***[~~Five (5)~~] members shall constitute a quorum.

Section 26. KRS 322.290 is amended to read as follows:

[~~(1) ~~]The board shall:

(1)[~~(a)~~]Administer this chapter;

(2)[~~(b)~~] Adopt an official seal;[~~ and~~]

(3)[~~(c)~~]Provide suitable office quarters at its own expense***;***

(4)[~~(2) The board shall:~~

~~(a)~~] Adopt and amend all bylaws***,*** and rules of procedure, ***and promulgate administrative regulations,*** consistent with the Constitution and laws of the state, and reasonably necessary for the proper performance of its duties and the regulation ***and fair conduct*** of the proceedings before it;

(5)[~~(b)~~] ***Appoint***[~~Employ~~] an executive director and ***assistant executive directors and fix their compensation;***

(6) Employ any clerk or other assistants necessary for the proper performance of its work;

(7) Appoint a general counsel and any assistant general counsel as it deems necessary, and fix their compensation;

(8) Appoint investigatory personnel, as it deems necessary, and fix their compensation;

(9) Appoint committees of licensees, as it deems necessary, to review issues before the board and make recommendations to the board;

[~~(c) Employ any legal assistants that it considers necessary~~];

(10)[~~(d)~~] Make expenditures***, as it deems necessary,*** for any purpose that it considers reasonably necessary for the proper performance of its duties, including ***paying*** the expenses of the board's delegates to national conventions of and membership dues to the National Council of ***Examiners for*** Engineering ***and Surveying***[~~Examiners~~] or other affiliated national boards or societies; ***and***

(11)[~~(e)~~] Adopt and promulgate ***by administrative regulation*** a code of professional practice and conduct, which shall be ***based upon generally recognized principles of professional ethical conduct and*** binding upon persons ***licensed***[~~registered~~] under this chapter[~~, and which may be amended from time to time~~]. ***A***[~~The~~] code of professional practice and conduct shall be made known to all ***licensees***[~~registrants~~] and applicants and shall include, but not be limited to, the following objectives:

(a)[~~1.~~] The protection of the public health, safety, and welfare;

(b)[~~2.~~] The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

(c)[~~3.~~] The avoidance of conflicts of interest;

(d)[~~4.~~] The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

(e)[~~5.~~] The prohibition of association with any person engaging in illegal or dishonest activities; and

(f)[~~6.~~] The limitation of professional service to the area of competence of the ***licensee;***

(12) [~~(f) registrant.~~]Adopt appropriate standards of practice;

(13)[~~(g)~~] Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, ***business entity,***[~~firm, association, corporation,~~] or combination thereof in violation of KRS 322.020 ***or Section 7 of this Act***; and

(14)[~~(h)~~] Adopt a program for continuing education for its individual land surveyor licensees. No individual land surveyor licensee shall be permitted to renew his ***or her*** license unless the minimum annual continuing education requirements are met, in addition to any other requirement for renewal. The program for continuing education shall not exceed a total of eight (8) credit clock hours per year and shall not include testing or examination of the licensee in any manner.

Section 27. KRS 322.300 is amended to read as follows:

The board shall keep a record of its proceedings and a register of all applications for ***licensure***[~~registration~~]. The register shall state ***the following***:

(1) [~~The~~]Name, age and residence of each applicant;

(2) [~~The~~]Date of the application;

(3) [~~The~~]Place of business of the applicant;

(4) ***Education***[~~His educational~~] and other qualifications ***of the applicant***;

(5) Whether[~~ or not~~] an examination was required;

(6) Whether the applicant was rejected;

(7) Whether ***a license***[~~registration~~] was granted;

(8) [~~The~~]Date of the action of the board; and

(9) Any other information that the board considers necessary.

Section 28. KRS 322.320 is amended to read as follows:

(1) In carrying this chapter into effect the board, under the hand of its chairman ***or executive director*** and under its seal, may, ***during the investigation or an administrative hearing procedure,*** in cases involving the revocation of a ***license***[~~registration~~] or practicing or offering to practice without ***a license***[~~registration~~], subpoena witnesses and compel their attendance, and require the production of books, papers and documents. Any member may administer oaths to witnesses appearing before the board.

(2) If any person refuses to obey any subpoena so issued, or refuses to testify or produce any books, papers or documents, the board may present its petition to any authority having jurisdiction, setting forth the facts. That authority shall, in a proper case, issue its subpoena to the person, requiring him to attend and testify or produce books, papers and documents considered necessary and pertinent by the board.

(3) Board members ***and agents and staff of the board*** shall be held free of any personal liability as a result of board actions.

Section 29. KRS 322.330 is amended to read as follows:

The secretary-treasurer***, or any other officer*** or ***designee***[~~that board employee~~] properly authorized by the board***,*** shall:

(1) Receive and account for all money collected under this chapter and pay it into the State Treasury***; and***[~~.~~]

(2) Publish ***every two (2) years, and at other intervals as established by the board by promulgation of administrative regulations***,[~~ during July of each year,~~] a roster[~~, or supplement thereto,~~] showing the names and[~~ places of~~] business ***addresses*** of all ***professional***[~~registered~~] engineers***, professional***[~~ and~~] land surveyors***, and business entities holding permits to practice engineering or land surveying in this state***. Copies of the roster shall be ***distributed***[~~mailed~~] to each ***professional***[~~registered~~] engineer and ***professional*** land surveyor, filed with the Secretary of State***,*** and ***distributed or sold to the public***[~~furnished to the public upon request~~].

Section 30. KRS 322.340 is amended to read as follows:

(1) Each ***professional engineer or professional land surveyor shall, upon licensure, obtain a seal or stamp of the design authorized by the board, bearing his or her name, license number, and the words "Licensed Professional Engineer" or "Licensed Professional Land Surveyor."***

(2) The seal or stamp, signature, and the date shall be used to provide certification for all reports, specifications, drawings, and plans, if presented to a client or any public or governmental agency. Reproduction of original signatures shall be adequate to meet the requirements of this subsection.

(3) No report, specification, drawing, or plan furnished on electronic media shall include, or have affixed thereto, an electronic reproduction of the stamp, seal, or signature.

- ***(a) An original seal or stamp, signature, and the date shall be placed on a printed copy produced by electronic media for all reports, specifications, drawings, and plans.***
- ***(b) The copy produced by electronic media shall have the following inserted in lieu of an original seal or stamp, signature, and date: "This shall not be considered a certified document. This document, originally issued, sealed, and signed by (name of sealer), Kentucky Professional (Engineer or Land Surveyor), No. (License Number), on (date of sealing or stamping), shall not be used in lieu of a certified document."***

(4) The seal or stamp and signature shall be used by licensees only if the work being stamped was under the licensee's complete direction and control.

(5) Every survey plat and physical description prepared by a professional land surveyor and submitted to a client or any public or governmental agency shall display the certification by the professional land surveyor under whose supervision the plat or description was prepared.

(6) It shall be unlawful for a licensee to affix, or permit to be affixed, his or her seal, stamp, or signature to any document described in subsections (2), (3), or (5) of this section:

- ***(a) After the expiration of a license; or***
- ***(b) For the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of this chapter.***

(7) A professional engineer shall check and have complete dominion and control of the design and engineering work of any engineer not licensed to practice in this state. Complete dominion and control shall include possession of the sealed and signed reproducible construction documents with all supporting design calculations, indicating all changes in the design[~~registrant shall, when he is registered, obtain a seal of the design authorized by the board, bearing his name and the words, "Registered Professional Engineer", or "Registered Land Surveyor". Plans, specifications, plats and reports approved by a registrant shall be signed and dated by the registrant and stamped with the seal when filed with public authorities, and before the delivery thereof to any client during the life of the registration, but no person shall stamp, sign and date seal any document with the seal after the registration has expired or has been revoked, unless it has been renewed or reissued~~].

Section 31. KRS 322.360 is amended to read as follows:

(1) Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving engineering, unless the plans, specifications and estimates have been prepared and the construction executed under the direct supervision of a ***professional***[~~registered~~] engineer or a licensed architect.

(2) Subsection (1) of this section shall not apply to any public work***, including a highway or capital project under KRS 56.491, that involves only maintenance or repair of the facility. Maintenance or repair shall not include any work which alters, modifies, or changes the original characteristics of the design***[~~ in which the contemplated expenditure for the completed project does not exceed two thousand dollars ($2,000), to the maintenance or repair of an existing state or county highway or to the construction, maintenance or repair of any capital construction project undertaken pursuant to KRS 56.491 the total cost of completion of which the Finance and Administration Cabinet has determined will not~~

~~exceed twenty-five thousand dollars ($25,000)~~].

Section 32. KRS 322.370 is amended to read as follows:

This chapter shall not prevent a ***professional***[~~registered~~] engineer from carrying on any architectural practice incident to the practice of engineering.

Section 33. KRS 322.380 is amended to read as follows:

(1) No person ***without a license***[~~not registered~~] under this chapter shall avoid or attempt to avoid this chapter by having a representative or employee seek engineering or land surveying work in his ***or her*** behalf.

(2) No person shall act as a representative or employee in the type of activity prohibited by subsection (1) of this section.

Section 34. KRS 322.400 is amended to read as follows:

No[~~It shall be unlawful for the~~] county clerk of any county, or any other public authority***, shall***[~~with whom the same may be required by law to be filed, to~~] accept for filing, file, or record any map, plat, survey, or other document related to the practice of land surveying, unless ***it evidences certification by a***[~~there is affixed thereto the personal seal and signature of the~~] ***professional***[~~registered~~] land surveyor by whom, or under whose personal supervision and direction, ***the***[~~such~~] map, plat, survey, or other document was prepared.

Section 35. KRS 322.420 is amended to read as follows:

[~~(1) All applications for registration as a land surveyor shall be made upon forms to be provided by the board and shall be signed and sworn to by the applicant. In addition to such other information as the board may require, all applications shall contain a statement of the applicant's educational attainments and record of experience. References shall be furnished therein to not less than five (5) persons possessing direct personal knowledge of the experience and work done by the applicant, at least three (3) of whom shall be registered land surveyors. Applications shall be filed with the executive director of the board and shall be accompanied by an application fee, to be established by regulation of the board. In the event that the board shall, for good cause, deny the application, the fee accompanying the same shall be retained by the board to cover the cost of investigating and processing the same.~~

~~(2)~~]All fees paid to and collected by the board under the provisions of this section shall be deposited in a depository designated by the board and disbursed only at the direction of the board. The officer or employee of the board who shall be designated to collect and disburse the funds represented by such fees shall be required to execute a bond, with corporate surety, in an amount to be determined by the board and reasonably calculated to cover the aggregate of such fees for a period of one (1) year.

Section 36. KRS 322.450 is amended to read as follows:

The provisions of this chapter relating to the necessity of ***licensure***[~~holding registration~~] to engage in the practice of land surveying shall not apply to:

(1) Any employee or employees of the Kentucky Department of Highways, or any other subdivision of the government of the Commonwealth of Kentucky, working under the direct supervision and control of a ***professional***[~~qualified and registered civil~~] engineer or ***professional*** land surveyor;

(2) Any person or persons engaged in the practice of land surveying which is limited to the measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or of the State of Kentucky; or

(3) Any employee or subordinate of a ***professional land surveyor whose work is done while under the direct supervision of, and is verified by, the professional land surveyor***[~~person holding a valid land surveyor's registration under the provisions of KRS 322.010, 322.200, 322.230 to 322.250, 322.420 to 322.460, provided, however, that the work performed by such person does not include the preparation of any final maps, plats, or other documents relating to land surveying which might become the subject of public record, and providing that the work of such employee is performed under the direct supervision of, and verified by, his registered employer~~].

Section 37. KRS 322.460 is amended to read as follows:

[~~It shall be the duty of~~]The Attorney General of Kentucky[~~,~~] or[~~ such of~~] his ***or her designee shall***[~~assistants as he may designate, to~~] act as legal ***adviser***[~~advisers~~] to the board and[~~ to~~] render[~~ such~~] legal assistance as the board may from time to time require. In addition[~~ thereto~~], the Attorney General of Kentucky, all Commonwealth's attorneys, and the county attorney of each county shall, upon request of the board, and without additional compensation[~~ therefor~~], lend their assistance to the enforcement of the provisions of ***this chapter***[~~KRS 322.010, 322.200, 322.230 to 322.250, 322.420 to 322.460~~] and the prosecution of any violations thereof. The board ***shall***[~~may~~] employ[~~ such~~] additional counsel as[~~ in its discretion may be or become~~] necessary to ***effectively enforce the provisions of this chapter***[~~the effective enforcement of KRS 322.010, 322.200, 322.230 to 322.250, 322.420 to 322.460~~], the cost of which shall be paid exclusively from funds of the board.

Section 38. KRS 322.470 is amended to read as follows:

As used in this section, "professional land surveyor" shall include the agents, the employees, and any personnel under the

supervision of a professional land surveyor.

(1) A ***professional***[~~registered~~] land surveyor[~~, his agents, employees, and personnel under his supervision,~~] may go on, over, and upon the lands of others ***if***[~~when~~] necessary to perform surveys for the location of property corners, boundary lines, rights-of-way, and easements, and[~~, in so doing,~~] may carry with them their customary equipment and vehicles.

(a) Entry under the right hereby granted shall not constitute trespass***;***[~~,~~] and

(b) A ***professional***[~~registered~~] land surveyor[~~, his agents, employees, and personnel under his supervision~~] shall not be liable to arrest or a civil action by reason of ***this***[~~such~~] entry***.***

(2) [~~, however,~~]Nothing in this section shall be construed as giving authority to a ***professional***[~~registered~~] land surveyor[~~, his agents, employees, or personnel under his supervision~~] to destroy, injure, damage***,*** or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for ***these***[~~such~~] damages.

(3)[~~(2)~~] A ***professional***[~~registered~~] land surveyor[~~, his agents, employees, and personnel under his supervision~~] shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

(4)[~~(3)~~] No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon ***his or her***[~~said~~] land under the provisions of this section.

Section 39. KRS 322.550 is amended to read as follows:

If the drawings and specifications are signed by the authors[~~ thereof~~] with the true titles of their occupations as may be required by law, the following buildings and additions to buildings, classified by use group, shall require the services of a professional engineer or architect registered in ***this state***[~~the Commonwealth of Kentucky~~]:

(1) Factory and industrial use group having a capacity of one hundred (100) persons or more;

(2) High hazard use group, regardless of capacity;

(3) Storage use group having a capacity of one hundred (100) persons or more***; and***

(4) Miscellaneous use groups having a capacity of one hundred (100) persons or more.

Section 40. KRS 322.990 is amended to read as follows:

Any person who violates any ***provision***[~~provisions~~] of this chapter shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or be imprisoned not more than three (3) months, or both.

Section 41. KRS 381.835 is amended to read as follows:

(1) The county clerk shall immediately set up the mechanics and methods by which recordation of a master deed or lease and of the individual units may be made. Provisions shall be made for the recordation of the individual units on subsequent resales, mortgages and other encumbrances, as is done with all other real estate recordation. The master deed or lease to which KRS 381.815 refers shall express the following particulars:

(a)[~~(1)~~] The description of the land, whether leased or in fee simple, and the building, expressing their respective areas;

(b)[~~(2)~~] The general description and the number of each unit, expressing its area, location and any other data necessary for its identification;

(c)[~~(3)~~]The description of the general common elements of the building; and

(d)[~~(4)~~] The common elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

(2)[~~(5)~~] Simultaneously with the recording of the declaration, there shall be filed in the office of the recording officer a set of the floor plans of the building or buildings, showing the layout, location, unit numbers and dimensions of the units, stating the name of the property or that it has no name, and bearing the verified ***certification by***[~~statement of~~] a ***licensed***[~~registered~~] architect or professional engineer[~~ certifying~~] that it is an accurate copy of portions of the plans of the ***building or buildings***[~~ building(s)~~] as filed with and approved by the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings, or, in the alternative, certifying that the plans fully and accurately depict the layout, location, unit numbers and dimensions of the units as built. If the plans do not include a verified statement ***of a licensed***[~~by such~~] architect or ***professional*** engineer that ***the***[~~such~~] plans fully and accurately depict the layout, location, unit numbers and dimensions of the units as built, there shall be recorded prior to the first conveyance of any unit an amendment to the declaration to which shall be attached a verified statement of a [~~registered architect or~~] professional ***land surveyor***[~~engineer so~~] certifying ***that***[~~as to~~] the plans[~~ theretofore~~] filed, or being filed simultaneously with ***the***[~~such~~] amendment***, fully and accurately depict the layout, location, unit numbers, and dimensions of the units as built***. The plans shall be kept by the recording officer in a separate file for each property, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "condominium ownership," with the name of the property, if any, and each containing an appropriate reference to the recording of the declaration. [~~Correspondingly,~~]The record of the declaration[~~,~~] shall ***also*** contain a reference to the file number of the floor plans of the building or buildings on the property affected[~~ thereby~~].

Section 42. KRS 433.770 is amended to read as follows:

(1) Any person who fraudulently and willfully removes, defaces, cuts down, or destroys a cornertree***, post,***[~~ or~~] cornerstone***, or any monument erected to designate***[~~ of~~] the boundary of this state, or of ***any county or city, or*** the ***boundary***[~~survey~~] of any tract ***or lot*** of land, shall be guilty of a Class D felony ***and shall cause the marker, at his or her own expense, to be re-established by a professional land surveyor***.

(2) Any person who willfully and knowingly, but without a felonious intent,[~~ breaks down, damages, or~~] removes***, defaces, cuts down, or destroys a tree, post, stone, or*** any monument erected to designate the boundaries of this state or of any county or city, or the boundaries of any tract or lot of land,[~~ or any tree, post, stone, or mark planted for that purpose,~~] shall ***cause the marker, at his or her own expense, to be re-established by a professional land surveyor***[~~be guilty of a violation~~].

Section 43. KRS 353.590 is amended to read as follows:

(1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be three hundred dollars ($300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.

(c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended).

(3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a ***professional*** land surveyor ***in accordance with the provisions of KRS Chapter 322***.[~~ When the location of the well is known to be underlaid by coal bearing stratum, the plat shall be certified accurate and correct by both a land surveyor and an engineer registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by the applicant be prepared either by a person approved by the director or an engineer registered in Kentucky.~~]

(5) When any person submits to the Department of Mines and Minerals an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall except as provided in this section, require from the well operator a bond in the sum of five hundred dollars ($500) for a well to be drilled to a depth of five hundred feet (500') or less; one thousand dollars ($1,000) for a well to be drilled to a depth between five hundred and one feet (501') and one thousand feet (1,000'); one thousand five hundred dollars ($1,500) for a well to be drilled to a depth between one thousand and one feet (1,001') and one thousand five hundred feet (1,500'); two thousand dollars ($2,000) for a well to be drilled to a depth between one thousand five hundred and one feet (1,501') and two thousand feet (2,000'); two thousand five hundred dollars ($2,500) for a well to be drilled to a depth between two thousand and one feet (2,001') and two thousand five hundred feet (2,500'); three thousand dollars ($3,000) for a well to be drilled to a depth between two thousand five hundred and one feet (2,501') and three thousand feet (3,000'); three thousand five hundred dollars ($3,500) for a well to be drilled to a depth between three thousand and one feet (3,001') and three thousand five hundred feet (3,500'); four thousand dollars ($4,000) for a well to be drilled to a depth between three thousand five hundred and one feet (3,501') and four thousand feet (4,000'); and five thousand dollars ($5,000) for a well to be drilled to a depth of more than four thousand feet (4,000'). The bonds shall be made in favor of the

Department of Mines and Minerals, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified. An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well, and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to administrative regulations promulgated by the department. The commission may establish a bond in a sum greater than five thousand dollars ($5,000) for any well to be drilled to a depth of more than four thousand feet (4,000') if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of ten thousand dollars ($10,000), covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds, and a property bond may be executed by an operator who owns all of the surface and mineral rights of a tract proposed for drilling. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars ($5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars ($5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (9) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund. The bond amounts shall be applicable only to permits issued upon and after July 13, 1990. All bonds posted for permits issued prior to July 13, 1990, shall remain in full force and effect for the duration of the permits.

(6) A successor to the well operator shall post bond and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.

(7) If the requirements of subsection (5) of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department***, by administrative regulation,*** or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations[~~ or orders~~] of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.

(8) A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director.

(9) All sums received ***under subsection (5) of this section or*** through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock; or

(b) Any water well used primarily for cooling purposes in an industrial process.

Section 44. KRS 45A.730 is amended to read as follows:

As used in KRS 45A.730 to 45A.750, unless the context requires otherwise:

(1) "Architectural services" means any professional service involved in the practice of architecture as defined in KRS 323.010;

(2) "Engineering services" means any professional service as defined in KRS 322.010***(4) and (5)***[~~(3) and (4)~~];

(3) "Firm" means any individual, firm, partnership, corporation, or other legal entity permitted by law to practice the profession of architecture or engineering and provide the services defined in subsections (1) and (2) of this section;

(4) "Local public agency" shall have the same meaning given in KRS 45A.345;

(5) "Project" means any capital improvement project, study, plan, survey, or new or existing program activity of a political subdivision that requires architectural or ***professional*** engineering services;

(6) "Qualification statement" means federal form SF254 and any other supporting documents that present a firm's qualifications and performance data.

Section 45. KRS 376.075 is amended to read as follows:

(1) Any ***professional***[~~licensed~~] engineer, licensed architect, licensed landscape architect, and ***professional*** land surveyor who performs professional services or services as defined in KRS 322.010***(4)***[~~(3)~~] for ***professional*** engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, and KRS 322.010***(10)***[~~(5)~~] for ***professional*** land surveyors shall have a lien on the building, structure, land, or project on which the services were performed, to secure the amount of the charges for services with interest as provided in KRS 360.040 and costs.

(2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.

(4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.

(6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of ***a professional***[~~an~~] engineer, architect, landscape architect, or ***professional*** land surveyor on a public improvement shall be governed by KRS 376.210.

Section 46. The following KRS sections are repealed:

322.130 Form of registration.
322.140 Registration prima facie evidence of right to practice.
322.150 Expiration date of registration.
322.350 Prohibited practices -- Board to prefer charges.

Section 47. By January 1, 1999, the Governor shall appoint two (2) members of the State Board of Licensure for Professional Engineers and Professional Land Surveyors in a manner consistent with the requirements of Section 22 of this Act.

Section 48. Sections 1 to 46 of this Act take effect January 1, 1999.

Representative Long moved that the House concur in Senate Committee Substitute to **HB 632**. Agreed.

Representative Long moved that **HB 632**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 24, 1998 roll call on **HB 632** - Appendix.) **HB 632**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Long moved that the vote by which **HB 632**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 168, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 3 to **HB 168** is as follows:

On page 6, line 3, after "***user.***" by deleting the remaining language on the line; and

On page 6, by deleting lines 4 and 5 in their entirety.

Representative Marcotte moved that the House concur in Senate Floor Amendment No. 3 to **HB 168**. Agreed.

Representative Marcotte moved that **HB 168**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 24, 1998 roll call on **HB 168** - Appendix.) **HB 168**, as amended by the Senate, was passed and the title agreed to. Representative Marcotte moved that the vote by which **HB 168**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 286, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 286** is as follows:

AN ACT relating to policemen's and firefighter's pension funds in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.290 is amended to read as follows:

(1) The city legislative body in cities of the first class may enact ordinances providing for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the firefighters' pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess, and collect contributions from the members for the benefit of the fund.

(2) There shall be a governing body of the policemen's pension fund, and a governing body of the firefighters' pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be comprised of ***persons receiving pension benefits from***[~~members of~~] the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the firefighters' pension fund. ***To be effective, an action of the governing body of a fund shall require only a simple majority of the votes cast at a properly convened meeting of the governing body where a quorum is present, with a quorum being a majority of the members of a governing body.***

(3) Any policemen's pension fund or any firefighters' pension fund established under the provisions of this section shall be held or distributed for***, and only for,*** any of the following purposes of the respective fund as applicable:

(a) Paying pensions***, and any bonus payments under applicable ordinances***;

(b) ***Making*** payments to the city for transfer to the County Employees Retirement System for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2);

(c) ***Transferring***[~~Transfer of~~] pension assets through investment contract or other financial instrument for the purpose of amortizing unfunded service ***liabilities***[~~liability~~]; and

(d) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565.

Pursuant to the terms of this section, if policemen of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed to the city for use by the city for any other purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (d) of this subsection. The governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal services, the amount such governing board deems proper.

(e) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565. Pursuant to the terms of this section, if firefighters of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed according to the terms of an agreement negotiated between the city and the union organization representing the firefighters. The city may use its share of the distributed excess funds for any purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (e) of this subsection.

(4) (a) The governing body of each pension fund shall insure that all of the assets in the fund are distributed for the purposes in subsection (3) of this section, and only for these purposes. If in any calendar year the assets in either fund exceed those needed for the actuarial liability for payment of pension benefits and any anticipated liabilities under subsection (3)(b) and (c) of this section, the legislative body of the city establishing the pension system shall insure by pension bonus ordinance that a portion of these excess funds be distributed in an equitable manner to all

eligible pension recipients. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on the effective date of this Act.

(b) The governing board of ***either***[~~the~~] fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal ***or other professional*** services, the amount such governing board deems proper.

(5)[~~(4)~~] Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.

(6) To assure equal protection for the beneficiaries of either fund, any action taken by the city executive or legislative body in cities of the first class that affects a policemen's pension fund or a firefighters' pension fund established under this section shall, to the maximum extent permitted by law, treat each fund in a uniform manner and shall not cause any change to be made to the structure or operation of either fund, whether through legislation, litigation, compromise, settlement, or otherwise, unless any proposed change is offered to the other fund before it takes effect. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on the effective date of this Act.

(7)[~~(5)~~] The legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the County Employees Retirement System. All new employees who would have been granted membership in the local policemen's pension system shall be members of the County Employees Retirement System. All active members of the local policemen's pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local policemen's pension system and to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage, and the city may, at its option, purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.

(8)[~~(6)~~] The legislative body in a city of the first class may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for firefighters in the County Employees Retirement System. In the event that the legislative body in a city of the first class issues such an order, then all new employees who would have been granted membership in the local firefighters' pension system shall be members of the County Employees Retirement System. All active members of the local firefighters' pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for firefighters who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local firefighters' pension fund, other than assets necessary to pay benefits to the remaining active members of the local firefighters' pension system and to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. After certification by the County Employees Retirement System of eligibility for hazardous duty coverage, each firefighter who becomes a member of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

(9)[~~(7)~~] Notwithstanding the provisions of KRS 61.565, which relate to the contributions required of participating employers, any city of the first class participating in the County Employees Retirement System hazardous duty pension plan which has in effect a collective bargaining agreement with a group of employees who participate in said plan, shall have the right to enter into agreement with its employees or with their respective collective bargaining representatives. This agreement may include, but is not limited to, specifications of what portion of the required employer contribution shall be borne by the participating employer and what portion shall be borne by the participating employee. This provision in no way modifies the employer's obligation to remit the contributions required by the County Employees Retirement System pursuant to KRS 61.565, whether such contributions are borne by the city or by its participating employees.

(10)[~~(8)~~] With regard to the employer participation or employer contributions pursuant to KRS 61.565 as it relates to future pension contribution requirements or as it relates to payback period or interest charge for service liability cost under alternate participation, if any statute or any resolution of the appropriate state board of trustees having authority over employer participation or employer contribution grants any terms or conditions to any city of the second through the sixth class, or to any county, or to any urban-county government, which are more favorable in terms of participation than terms or conditions granted to any city of the first class, then said provisions for employer participation or contribution shall be available to the city of the first class, at its option and effective upon adoption by the city of the first class and notification to the County Employees Retirement System.

Representative Burch moved that the House concur in Senate Committee Substitute to **HB 286**. Agreed.

Representative Burch moved that **HB 286**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 24, 1998 roll call on **HB 286** - Appendix.) **HB 286**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Burch moved that the vote by which **HB 286**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 401, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 401** is as follows:

On page 3, line 18 after "a" by inserting "***misdemeanor for which restitution is ordered in excess of three hundred dollars ($300), or a felony***", and by deleting "***crime***".

Representative Crimm moved that the House concur in Senate Committee Amendment No. 1 to **HB 401**. Agreed.

Representative Crimm moved that **HB 401**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 2 (See March 24, 1998 roll call on **HB 401** - Appendix.) **HB 401**, as amended by the Senate, was passed and the title agreed to. Representative Crimm moved that the vote by which **HB 401**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 250, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 250** is as follows:

AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee ***participating in the Kentucky Employees Retirement System who is*** determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation***. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation***;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) ***Except for the employee contribution by members of the Kentucky Employees Retirement System,*** the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. ***The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).***

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross

income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation"~~[of a member]~~ means***:***

(a) For a member who is employed in a nonhazardous position, as provided in Section 1 of this Act, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in Section 1 of this Act, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a

retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort; and

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434.

Section 3. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the ***three (3)***[~~five (5)~~] fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the ***three (3)***[~~five (5)~~] year period, multiplied by twelve (12); the ***three (3)***[~~five (5)~~] years may be fractional and need not be consecutive. If the number of months of service credit during the ***three (3)***[~~five (5)~~] year period is less than ***twenty-eight (28)***[~~forty-eight (48)~~], one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month; and

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests.

Section 4. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, ***1998***~~[1968]~~, contribute for each pay period for which he receives compensation, ***eight***~~[seven]~~ percent ***(8%)***~~[(7%)]~~ of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Representative Jenkins moved that the House concur in Senate Committee Substitute to **HB 250**. Agreed.

Representative Jenkins moved that **HB 250,** by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 24, 1998 roll call on **HB 250** - Appendix.) **HB 250**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Jenkins moved that the vote by which **HB 250**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 12 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 5, line 24, after "***After***" by deleting "***two (2)***" and inserting in lieu thereof "***four (4)***".

Floor Amendment No. 19 to the House Committee Substitute to **SB 214**, by Representative Ford:

On page 5, line 24, after "***(1)***" by deleting "***After two (2) years from the effective date of this Act, no***" and inserting in lieu thereof "***No***"; and

On page 6, line 15, after "***(1)***" by deleting "***Two (2) years from the effective date of this Act, any***" and inserting in lieu thereof "***Any***"; and

On page 10, after line 11, by inserting:

"Section 12. Sections 1 to 11 of this Act take effect July 1, 2002.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 66**, by Representative J. Adams:

On Page 3, line 1, by deleting the words "***director of***" and inserting and underlining in lieu thereof "***commissioner***"; and

On Page 3, line 2, by deleting the words "***community programs***"; and

On Page 3, line 6, by deleting the words "***by the Department of Local Government before***"; and

On Page 3, line 7, by inserting and underlining at the beginning of that line "***prior to***"; and

On Page 3, lines 9 through 15, by deleting them in their entirety; and

On Page 3, lines 16, 20 and 24, by deleting "***(10)***", "***(11)***", and "***(12)***" and renumbering these subsections as "***(9)***", "***(10)***", and "***(11)***" respectively; and

On Page 3, line 24, by deleting the word "***may***" and inserting and underlining in lieu thereof "***shall***".

Floor Amendment No. 1 to **SB 395**, by Representative Barrows:

On page 9, between lines 18 and 19, by inserting the following:

"Section 5. KRS 186.1864 is amended to read as follows:

(1) ***Except as provided for in subsection (4) of this section,*** any person who complies with the provisions of KRS 186.186 may apply for a special youth soccer license plate.

(2) After the Transportation Cabinet offsets its administrative costs for computer programming of a special youth soccer license plate, all revenues generated by the initial state fee for youth soccer license plates pursuant to KRS 186.186 shall be forwarded by the Transportation Cabinet to the Tourism Cabinet on a quarterly basis. The Tourism Cabinet shall deposit all funds received pursuant to this subsection into a trust and agency account dedicated to promoting and

furthering youth soccer programs in Kentucky. The Tourism Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish criteria for awarding grants to nonprofit organizations that promote youth soccer programs in Kentucky.

(3) Youth soccer license plates shall contain the words "Support Youth Soccer" and shall boldly feature the ***United States Youth Soccer Association***[~~1995 World Cup soccer~~] emblem. The name "Kentucky" and the expiration date shall appear on the youth soccer license plate. The cabinet may use any combination of letters or numerals as needed in the design. The application for a youth soccer license plate may be combined with a request that the plate be a personalized plate authorized pursuant to KRS 186.174.

(4) The cabinet shall begin printing the youth soccer license plates if it receives nine hundred (900) applications submitted in accordance with KRS 186.186 by December 31, 1998. If nine hundred (900) applications are not received by December 31, 1998, the cabinet shall refund deposits received in accordance with KRS 186.186."; and

On page 9, line 19 by renumbering "Section 5" as "Section 6".

Floor Amendment No. 11 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 10, after line 10, by inserting:

"***Sections 1 to 11 of this Act shall only apply to those areas within a twenty (20) mile radius of the most eastern point of the boundary of the Commonwealth.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 149 IS CREATED TO READ AS FOLLOWS:"; and

On page 1, line 3; page 3, lines 9, 13, and 27; page 9, lines 4 and 16; and page 10, lines 7 and 11, by deleting "***10***", and inserting in lieu thereof, "***11***".

Floor Amendment No. 13 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 6, line 19, by deleting "***or will likely cause***".

Floor Amendment No. 14 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 2, after line 2, by inserting

"***(b) The cutting of fence posts;***"; and

On line 3, by replacing "***(b)***" with "***(c)***"; and

On line 5, by replacing "***(c)***" with "***(d)***"; and

On line 9, by replacing "***(d)***" with "***(e)***"; and

On line 13, by replacing "***(e)***" with "***(f)***".

Floor Amendment No. 15 to the House Committee Substitute to **SB 214**, by Representative Allen:

On page 9, line 23, by deleting "***five thousand dollars ($5,000)***", and inserting in lieu thereof, "***one thousand dollars ($1,000)***".

Floor Amendment No. 16 to the House Committee Substitute to **SB 214**, by Representative Maricle:

On page 5, line 27, after "***Program.***" by inserting "***The cabinet shall not charge any person a fee for conducting a timber harvesting operation.***".

Orders of the Day (Continued)

SB 88 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **SB 88** be passed.

On the roll call the vote was: Yeas 89, Nays 2 (See March 24 , 1998 roll call on **SB 88** - Appendix.) **SB 88** was passed and the title agreed to. Representative Bowling moved that the vote by which **SB 88** was passed be reconsidered and said

motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 144, by Representative Riner: A RESOLUTION relating to the Outstanding Youth Leadership Award.

HR 145, by Representative Rader: A RESOLUTION adjourning the House of Representatives in loving memory of Donnie Walters and urging state and local leaders to promote safe and secure neighborhoods.

HR 146, by Representatives Deskins and Gray: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Leonard "Scottie" Smith.

HR 147, by Representative G. Graham: A RESOLUTION adjourning the House of Representatives in celebration of the 200th year of the historic Old Governor's Mansion.

HR 148, by Representatives Reinhardt, Marcotte, Stine, Walton, Callahan, Simpson, Murgatroyd, and Kerr: A RESOLUTION adjourning the House of Representatives in loving memory of Rebecca Carloss Page Brooker.

Motions, Petitions and Communications (Continued)

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 187**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the members of the Union County High School Varsity Basketball Team for a phenomenal season performance culminating in this outstanding team being named a participant in the prestigious Sweet Sixteen Basketball Tournament. These extraordinary young Kentucky athletes have demonstrated laudable talent and dedication to the sport of basketball both by their participation in this tournament and by their hard work throughout the season. The members of the Kentucky House of Representatives are delighted to join with Representative John Arnold in recognizing the exceptional effort made by the members of the Union County High School Varsity Basketball Team and in extending best wishes for continued athletic victories. **Legislative Citation No. 187** was adopted without objection.

Representative Gooch moved the adoption of the following **Legislative Citation No. 193**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in reverent memory of Paul Truitt Shelton and extends sincerest expressions of sympathy to his devoted children, Paula, Karen and Patricia; his cherished siblings, Agnes, Alice and Amos; and to his adored grandchildren, nieces and nephews. A merchant, farmer and member of Clay First General Baptist Church, this distinguished Kentucky citizen has left a legacy of kindness and generosity of spirit which is this day celebrated by all those whose fortune it was to know him. The House of Representatives of the Commonwealth of Kentucky is honored to join Representative Jim Gooch, Jr. in offering solace and sincere condolences to the family of Paul Truitt Shelton and in adjourning this day in memory of this extraordinary gentleman. **Legislative Citation No. 193** was adopted without objection.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **SB 53**

Motions, Petitions and Communications (Continued)

Representative Palumbo moved the adoption of the following **Legislative Citation No. 195**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Katie Jefferson. The House of Representatives joins Representative Ruth Ann Palumbo in expressing deepest sympathy to all who share in the great loss on the untimely passing of this extraordinary lady, beloved wife of Robert R. Jefferson; cherished mother of Robert and Stanley; adored sister of five siblings and doting grandmother of four grandchildren.

Katie Jefferson was a graduate of Kentucky State College, a member of the U.S. Air Force and an honorable veteran of the Korean War. A retired education specialist for the Federal Correctional Institution, she was a tireless advocate for equal opportunity and fair housing practices and played an instrumental role in the establishment of programs to help low-to-moderate income people become homeowners. She was also a member of such notable organizations as the Micro-City Government, the Human Rights Commission, the Lyric Foundation and the National Conference Green Circle Program. Inasmuch as the stellar legacy of Katie Jefferson will long be remembered for its immense honor and integrity, the members of this august body do hereby extend sincere condolences to the family and friends of this remarkable lady and do adjourn this legislative day in her memory. **Legislative Citation No. 195** was adopted without objection.

Representative Haydon moved the adoption of the following **Legislative Citation No. 188**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Creative Education Center as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are pleased to join with Representative Jodie Haydon in applauding the initiative of the students and teachers of the Creative Education Center and in extending a warmest welcome as they join to witness the proceedings of the Kentucky General Assembly. **Legislative Citation No. 188** was adopted without objection.

Representative Siler moved the adoption of the following **Legislative Citation No. 194**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Lucille Aasa a phenomenal woman who was a 1995 recipient of an Outstanding Veteran's Award by Governor Brereton Jones in honor of both her service in the Army in World War II and the devotion with which she raised funds for the Women in Service Memorial in Washington, D.C., which was dedicated last year. A staunch advocate for women's programs across the Commonwealth and the nation, Lucille Aasa will long be missed by those whose fortune it was to know her. The members of the Kentucky House of Representatives join Representative Charles L. Siler in extending sincere condolences to her beloved son, Donald Ellison; and to all those cherished friends and family who do deeply mourn her passing; and in hereby adjourning this legislative day in reverent memory of this most honored citizen of the Commonwealth. **Legislative Citation No. 194** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 194** (See March 24, 1998, roll call on **Legislative Citation No. 194** - Appendix.)

Representative Stacy moved the adoption of the following **Legislative Citation No. 190**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Morehead Elementary School as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these outstanding young scholars are commended for their efforts to broaden their knowledge and understanding of democracy and government. The members of this distinguished body are pleased to join Representative John Will Stacy in welcoming the students and teachers of Morehead Elementary School to today's session of the Kentucky House of Representatives. **Legislative Citation No. 190** was adopted without objection.

Representative Marzian moved the adoption of the following **HR 143**:

HR 143, A RESOLUTION adjourning the House of Representatives in honor of Mayor Jerry Abramson and declaring March 25, 1998, as Jerry Abramson Day in the Commonwealth of Kentucky.

WHEREAS, Mayor Jerry Abramson has worked extensively and successfully to culturally enhance downtown Louisville through the expansion of the Convention Center and the revitalization of historic Main Street, including the re-establishment of Hillerick & Bradsby with the Louisville Slugger Museum and factory, the construction of the new Louisville Ballet building, the beautiful restoration of historic cast-iron facades, and the development of a new Waterfront Park and nearby baseball stadium; and

WHEREAS, the House of Representatives of this great Commonwealth feels that it is both befitting and proper to reflect upon the contributions that Mayor Jerry Abramson has given to the city of Louisville throughout his political career, and the lasting impact that his leadership will leave on that great city; and

WHEREAS, much of Louisville's success as a flourishing metropolitan community can be, in large part, attributed to Mayor Abramson's aggressive and effective persuasion in attracting major economic investment to Louisville, such as the Presbyterian USA headquarters, Tricon Global Restaurants, Inc., and the United Parcel Service (UPS) Hub 2000; and under his auspices, he led the campaign for expansion of the Louisville International Airport, a $600 million initiative that added two new runways, an air traffic control tower, and a 4,300 space parking garage, which has more than doubled the airport's capacity; and

WHEREAS, he has contributed to the initiation of many municipal projects which have greatly enhanced the quality of life and community integrity in Louisville by being the driving force in championing the redevelopment of urban neighborhoods, adding over 4,000 units of affordable housing and implementing an Empowerment Zone strategy to attract new commercial and residential investment in disadvantaged areas; and

WHEREAS, he has achieved unprecedented success in enhancing city government services through programs such as Mayor's Night In and Mayor's Night Out, City CALL, and Operation Brightside, which has planted more than 1.1 million flowers and collected over 100,000 tons of trash; Operation Brightside also helps promote the city-wide voluntary curbside recycling program and household junk pickup program which serves over 90,000 households; and

WHEREAS, Mayor Abramson has been nationally recognized with awards such as Newsweek's Top 25 Most Dynamic Mayors; the U. S. News and World Report's top 20 Mayors; the City and State's Most Valuable Public Official in City Government; he was the recipient of an honorary Doctor of Laws degree awarded by both Kentucky Wesleyan College in 1990, and by Spalding University in 1995; he received the 1989 Richard Strauss award, the highest honor given by the National Conference of Christians and Jews for significant humanitarian contributions to his community; he received the International B'nai B'rith Great American Tradition Award in 1987 for the "moral, ethical and philosophical values" he has displayed in providing leadership and commitment to the Louisville community; and he also received the 1996 Public Sector Award from the National Alliance to End Homelessness for his efforts to implement permanent solutions to homelessness; and

WHEREAS, Mayor Abramson's personal commitments and significant contributions through his many years of service have established a bright future for the City of Louisville, and during his administration, the city has received several national recognitions. In 1993, Louisville was selected as the only medium-sized city in the nation to be among the ***Rand McNally Places Rated***: The Top Ten Best Cities in America in two consecutive rankings, and ***Places Rated*** also named Louisville one of five "Super-Solid Metro Areas;" USA Today rated Louisville one of the 15 fastest growing urban economies; the Wall Street Journal's "Managing Your Career," named Louisville one of the five best big-city job markets for new college graduates; and the U. S. News & World Report ranked Louisville in the nation's top 25 real estate markets; and

WHEREAS, Mayor Abramson's impeccable credibility has earned him the honor of being the only mayor to serve on the Advisory Board of the Center for Strategic and International Studies, a research group that develops innovative responses to national and international issues; he serves on the Advisory Board of the Barnard-Columbia Center for Leadership in Urban Public Policy; he is co-chair of the national Task Force on Excellence in State and Local Government through Labor-Management Cooperation; and he has also served on the U. S. Housing and Urban Development's (HUD) Commission on Regulatory Barriers to Affordable Housing and the Strengthening of America Commission; and

WHEREAS, Mayor Abramson has been a voice of the people and for the people, working diligently toward extensive improvements, new challenges, and new possibilities that have led Louisville down a true path of financial stability and economic growth while providing outstanding leadership to this great city as the first mayor to serve three consecutive terms, and his widely accepted popularity among Louisvillians allowed him to win each election by record margins of up to ninety-four percent;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud and honored to recognize Mayor Jerry Abramson for his many contributions to the City of Louisville and for the effective role he has played as mayor during his three successful terms of office. Mayor Abramson is a man of the highest integrity, insight, vision, and compassion, and he has brought distinction to the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Mayor Jerry Abramson, and March 25, 1998, is hereby declared Jerry Abramson Day in the Commonwealth of Kentucky.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Jerry Abramson, Mayor, City of Louisville, 601 W. Jefferson Street, Louisville, Kentucky 40202.

There being no objection **HR 143** was adopted.

Representative Newsome moved the adoption of the following **Legislative Citation No. 167**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Cordia Elementary School as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are pleased to join with Representative Donnie Newsome in applauding the initiative of the students and teachers of Cordia Elementary School and in extending our warmest welcome as they come to witness the proceedings of the Kentucky General Assembly. **Legislative Citation No. 167** was adopted without objection.

Representative Newsome moved the adoption of the following **Legislative Citation No. 168**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Emmalena Elementary School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome in applauding the initiative of the students of Emmalena Elementary School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 168** was adopted without objection.

Representative Newsome moved the adoption of the following **Legislative Citation No. 189**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Carr Creek Elementary School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome in applauding the initiative of the students of Carr Creek Elementary School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 189** was adopted without objection.

Representative Burch moved the adoption of the following **HR 142**:

HR 142, A RESOLUTION in honor of the occasion of the birth of Alexis Marie Meeks.

WHEREAS, Alexis Marie Meeks, a native of Louisville, Jefferson County, Kentucky, was born on Tuesday, June 10, 1997, weighing 5 pounds, and delivered by Dr. Rita Fleming; and

WHEREAS, Alexis Marie Meeks is the adored daughter of Michael Lamont Meeks and Michelle Gennene Meeks; and

WHEREAS, Alexis Marie Meeks is the loving granddaughter of Florian Meeks and Eloise Meeks, and Leanna Zenon, and the precious sister of Erica Monique Bates, Calvin Cash Bates, and Azia Iman Meeks; and

WHEREAS, God has gladdened the earth by sending us Alexis Marie Meeks;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud to recognize Alexis Marie Meeks upon the occasion of her birth on June 10, 1997, and wishes to her a bright and happy future with her loving family.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Michael L. Meeks, 6203 Cutter Drive, Louisville, Kentucky 40218.

There being no objection **HR 142** was adopted.

Representative Damron moved the adoption of the following **Legislative Citation No. 196**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Cleo Steele Dean upon the auspicious occasion of her 90th Birthday. In celebration of this memorable event the entire membership joins Representative Robert R. Damron in commending Mrs. Dean, a retiree of the Cabinet for Human Resources, for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body, along with her devoted son, George Dean, hereby extends best wishes on this meaningful occasion of her 90th birthday. **Legislative Citation No. 196** was adopted without objection.

Representative D. Butler moved the adoption of the following **HR 140**:

HR 140, A RESOLUTION declaring July 11, 1998, as Iroquois Amphitheater Sixtieth Anniversary Celebration Day.

WHEREAS, Iroquois Amphitheater provides Music Theater Louisville's affordable, family-oriented musical productions; and

WHEREAS, Music Theater Louisville strives to hire local, professional acting and technical talent for the Iroquois Amphitheater to help employ people from this region; and

WHEREAS, in addition to the musicals, Iroquois Amphitheater brings families together to enjoy a large variety of family entertainment; and

WHEREAS, Iroquois Amphitheater brings the arts and entertainment to a very diverse group of citizens; and

WHEREAS, Iroquois Amphitheater is a strong attraction for in-town and out-of-town travelers; and

WHEREAS, Iroquois Amphitheater is an important historical facility for the Greater Louisville area; and

WHEREAS, Iroquois Amphitheater is a very important part of the South End of Louisville's economic development;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is proud to recognize Iroquois Amphitheater and honored to declare July 11, 1998 as Iroquois Amphitheater Sixtieth Anniversary Day.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Music Theater of Louisville, 624 W. Main Street, Suite 402, Louisville, Kentucky 40202.

There being no objection **HR 140** was adopted.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 133**, by Representative D. Butler:

On page 4, after line 3, by inserting the following:

"SECTION 3 A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class or an urban county government:

(1) An employee of the local board of education may report a student for investigation to the director of pupil personnel if an agreement has been entered into with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or a child suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the local board and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(2) The agreement shall establish procedures for:

(a) Notifying the parent or guardian, or other person exercising custodial control or supervision of the child, and appropriate school officials;

(b) Verifying the status of the child;

(c) Releasing the child to a parent or guardian, or other person exercising custodial control or supervision of the child;

(d) Providing counseling and advice on school attendance; and

(e) Allowing nonpublic schools to have, upon request, a method of certifying a school age child is not subject to the provisions of this section.".

Floor Amendment No. 1 to **SB 19**, by Representative Ford:

On page 4, line 7, by deleting "***and***"; and

On page 4, line 9, after "***KRS 304.14-600***", by inserting "***; and***

(k) Exclude any capital gains income attributable to property taken by eminent domain"

Floor Amendment No. 2 to **SB 257**, by Representative Siler:

On page 1, line 19 after "employees" by inserting "***within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation***";

On page 1, lines 20 through 22, by deleting all new and underlined language.

Floor Amendment No. 17 to the House Committee Substitute to **SB 214**, by Representative Maricle:

On page 1, line 3, on page 3, lines 9,13, and 27 , and on page 10, line 11, by deleting "***10***" and replacing it with "***8***"; and

On page 5, on line 24, after "***(1)***" by deleting the rest of the language on the page, and replacing it with "***A Master Logger Program shall be conducted to provide training for loggers in the Commonwealth.***"; and

On page 6, line 2, by deleting "***required of***" and inserting in lieu thereof "***available to***"; and

On line 5, by deleting "***specify the requirements for***" and inserting in lieu thereof "***develop a***"; and

On line 6, after "***education***" by inserting "***program***"; and

On line 9, before "***continuing***" by deleting "***required***"; and

On page 6, by deleting lines 11 and 12; and

By deleting Sections 8, 9, and 10; and

by renumbering Section 11 as Section 8

Floor Amendment No. 2 Title to **SB 326**, by Representative Clarke:

By amending the title to read as follows: "AN ACT relating to local government.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 326**, by Representative Clarke:

On page 2, after line 2 by adding the following:

"Section 2. Whereas, the State of Kentucky has one of the greatest number of counties of any state in the nation, and the efficient operation and function of county government is essential to the economic health and well-being of the Commonwealth, the Interim Commission to Study County Government is established to study county government structure and function in Kentucky. During the 1998-1999 interim, the commission shall review the structure and function of all counties in Kentucky and issue a report on their status along with any legislative recommendations which may include a plan for the General Assembly to reduce, through consolidation in accordance with Sections 63 and 64 of the Constitution, the number of counties in Kentucky. If any plan is submitted which would call for the consolidation of any counties, it shall not require the elimination of the office of any popularly elected county official or school board member in office on the effective date of any such legislation, so long as that officer is continuously in the same office until the date of consolidation, or until the officer vacates his office, whichever shall occur first.

Section 3. The commission shall be composed of twenty-five (25) members, chosen in the following manner:

(1) Four (4) members of the General Assembly, two (2) to be appointed by the Speaker of the House of Representatives, and two (2) to be appointed by the President of the Senate;

(2) The secretary of the Cabinet for Economic Development or the secretary's designee;

(3) The Attorney General or the Attorney General's designee;

(4) Six (6) elected county officials, four (4) of whom shall be appointed from a list of at least twelve (12) nominees submitted jointly by the Kentucky Association of Counties and the Kentucky County Judge/Executives Association;

(5) Three (3) elected city officials, all of whom shall be appointed from a list of at least four (4) nominees submitted by the Kentucky League of Cities;

(6) Two (2) judges of the Court of Justice, of which one shall be from a multicounty Circuit Court, and one shall be from a multicounty District Court, from a list of at least three (3) nominees submitted by the Chief Justice of the Kentucky Supreme Court;

(7) One (1) person representing the area development districts submitted from a list of at least three (3) from the Kentucky Council of Area Development Districts;

(8) One (1) county attorney, from a list of at least three (3) nominees submitted by the Attorney General;

(9) One (1) county sheriff, from a list of at least three (3) nominees submitted by the Kentucky Sheriffs Association;

(10) One (1) county clerk, from a list of at least three (3) nominees submitted by the County Clerks Association;

(11) One (1) member from a list of at least three (3) superintendent nominees submitted by the Kentucky Association of School Superintendents; and

(12). Three (3) citizens, one of whom is selected from a county with a population of less than ten thousand (10,000) citizens, one of whom is selected from a county with a population between ten thousand (10,000) and twenty thousand (20,000) citizens, and one of whom is selected from a county with a population greater than twenty thousand (20,000).

The Legislative Research Commission shall appoint the members to the commission on or before August 1, 1998.

Section 4. (1) The President of the Senate and the Speaker of the House shall each designate a co-chair for the commission.

(2) Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

(3) The full commission shall meet at times it deems necessary. The commission may hold public hearings from time to time on matters within its purview. Whenever appropriate, the commission may organize itself into task groups related to the subject matter under consideration and they may meet at times they deem necessary.

(4) The commission shall provide a report with recommendations on the process of consolidating counties to the Legislative Research Commission by September 1, 1999. It is intended that the General Assembly review the report, and enact any legislation deemed necessary on the basis of the report. If the General Assembly determines that additional research is necessary, it may renew the commission from session to session until the final report is adopted and a plan for the consolidation of counties is enacted.

(5) The members of the commission shall serve for two (2) year terms which the General Assembly may renew at succeeding regular sessions. Vacancies in the commission shall be filled by appointment in the same manner as the original

appointment.

Section 5. Staff services to be utilized in completing the work of the commission are estimated to cost $50,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.".

Floor Amendment No. 18 to the House Committee Substitute to **SB 214**, by Representative Ford:

On page 9, line 8, and lines 9 to 10, by deleting "***twenty-one (21)***", and inserting in lieu thereof, "***ninety (90)***".

Floor Amendment No. 1 to **SB 242**, by Representative Gooch:

On page 1, after line 12, by inserting the following:

Section 2. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;[~~and~~]

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations.".

Senate Message (Continued)

Announcing passage of **HB 115, HB 188, HB 189, HB 371, HB 372, HB 407, HB 448, HB 498, HB 598, HB 621, HB 635, HJR 60, HJR 61,** and **HJR 75**. Message received on **HB 475**: The Senate has passed **HB 475** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 550**: The Senate has passed **HB 550** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 560**: The Senate has passed **HB 560** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 4:15 p.m.)

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 37**, Representatives Johns, Marzian; **HB 54, HB 318**, Representatives Miller, Weaver; **HR 143**, Representative Crimm.

Representative Marzian moved that the rules be suspended to withdraw **HB 889**. Agreed.

Representative Cox moved that the rules be suspended to withdraw Floor Amendment No. 1 to **SB 65**. Agreed.

Representative Wilkey moved that the rules be suspended to withdraw Floor Amendment No. 2 to **SB 18**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Anderson moved that he be recorded as voting "yea" on **SB 296**. Agreed.

Representative Hogancamp moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hogancamp moved that she be recorded as voting "yea" on **HB 263** and **SB 77**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative McKee moved that his vote be changed from "nay" to "yea" on **HB 859**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that his vote be changed from "nay" to "yea" on **HB 429**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **HB 263**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Simpson moved that he be recorded as voting "yea" on **SB 41**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "yea" on **SB 277**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Collins moved that he be recorded as voting "yea" on **HB 307**. Agreed. Representative Collins moved that his vote be changed from "yea" to "nay" on **HB 468**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Brandstetter moved that he be recorded as voting "nay" on **SB 55**. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **SB 28, SB 36, SB 59, SB 106, SB 122, SB 250, SB 320, SB 354,** and **SB 83**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 2**, "nay" on **HB 226**, and as voting not to concur in Senate Floor Amendment No. 1 to **HB 226**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HR 136**. Agreed.

Announcements

The following meeting was cancelled:

Licensing and Occupations, March 25, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 25, 1998.

On the roll call the vote was **Yeas 71**--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, D. D. Butler, L. Clark, P. Clark, J. Clarke, Collins, Colter, Cox, Crenshaw, Crimm, Damron, Ford, Gee, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Johns, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington. **Nays 7**--Cave, Crall, Hoover, Nunn, Stewart, Walton, Yonts.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 25, 1998

FIFTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Invocation by Lorin Franklin, who will present "The Lord's Prayer" in song.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives D. Graham and Hatcher.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 24, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 424, HB 27, HB 130, HB 151, HB 249, HB 305, HB 434, HB 545, HB 614, HB 644**, and **HB 668**. Message received on **HB 337**: The Senate has passed **HB 337** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 377**: The Senate has passed **HB 377** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 380**: The Senate has passed **HB 380** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 418**: The Senate has passed **HB 418** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 496**: The Senate has passed **HB 496** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 565**: The Senate has passed **HB 565** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 617**: The Senate has passed **HB 617** with Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 2, HB 92, HB 131, HB 168, HB 250, HB 263, HB 286, HB 307, HB 328, HB 333, HB 382, HB 391, HB 401, HB 402, HB 410, HB 429, HB 431, HB 453, HB 564, HB 632, HB 115, HB 188, HB 189, HB 371, HB 372, HB 407, HB 448, HB 498, HB 598, HB 621, HB 635, HJR 60, HJR 61, HJR 75, SB 72, SB 77, SB 88, SB 135, SB 147, SB 160, SB 164, SB 261, SB 276**, and **SB 352** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:14 p.m.) **HB 2, HB 92, HB 131, HB 168, HB 250, HB 263, HB 286, HB 307, HB 328, HB 333, HB 382, HB 391, HB 401, HB 402, HB 410, HB 429, HB 431, HB 453, HB 564, HB 632, HB 115, HB 188, HB 189, HB 371, HB 372, HB 407, HB 448, HB 498, HB 598, HB 621, HB 635, HJR 60, HJR 61, HJR 75, SB 72, SB 77, SB 88, SB 135, SB 147, SB 160, SB 164, SB 261, SB 276**, and **SB 352** delivered to the Senate and signed by the President. Delivered to the Governor on March 25, 1998 at 3:54 p.m.

Floor Amendments

Floor Amendment No. 20 to the House Committee Substitute to **SB 214**, by Representative Walton:

On page 6, line 16, after "***shall***", by inserting "***be encouraged to***"; and

On line 21, after "***operations***", by deleting "***has failed to use the appropriate best management practices or***"; and

On line 23, after "***constitute***" by deleting the rest of the line; and

On line 24, before "the" by deleting "***practice or***"; and

On line 27, after "***to***" by deleting "***implement the appropriate best***"; and

On page 7, line 1, before "***abate***", by deleting "***management practices or has failed to***"

On line 4, after "***to***" by deleting "***implement the appropriate***"; and

On line 5, before "***abate***" by deleting "***best management practices or has failed to***"; and

On line 6, after the first "***the***" by deleting "***best management practice that the***"; and

On line 7, before "***facts***" by deleting "***logger or operator has failed to implement or the***"; and

On line 11, after "***implement***" by deleting "***the best management practice or***"; and

On line 13, after the first "***the***" by deleting "***best management practice or the***"; and

On page 8, line 14, after "***implement***" by deleting "***the best management practices or***".

Floor Amendment No. 1 to **SB 95**, by Representative Burch:

On page 1, after line 11, by inserting the following:

"Section 2. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, ***the commissioner of the Department for Juvenile Justice, the commissioner of the Department for Social Insurance,*** and the executive director of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; [~~and~~]

(i) Develop services to meet the needs of children with an emotional disability***; and***

(j) Promote strategies to improve statewide and regional prevention services.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 1. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) representative of the Department of Juvenile Justice who works in the area served by the regional council chosen by the commissioner of the Department for Juvenile Justice;

(e) One (1) representative from a health department in the area served by the regional council chosen by the public health directors of the region;

(f) One (1) representative of the local Department for Social Insurance chosen by the regional field service manager in the area served by the regional council;

(g)[~~(d)~~] One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(h)[~~(e)~~] Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 4. KRS 200.672 is amended to read as follows:

While Kentucky is participating in Part C of the Individuals with Disabilities Education Act, P.L. 102.119 and P.L. 105-17~~[Within the limitations of any available funding and subject to any appropriations related thereto]~~, an infant or toddler with a disability who is being served by the Kentucky Early Intervention System and the parent or guardian of that child shall have the following rights:

(1) To a timely, multidisciplinary evaluation and assessment;

(2) To appropriate early intervention services for children and families;

(3) To refuse evaluation, assessment, or services;

(4) To written notice before a change is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(5) To written notice before a refusal of services is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(6) To confidentiality of personally identifiable information, including the right of the parent or guardian to be provided written notice of, and written consent to, the exchange of information among agencies, consistent with federal and state laws;

(7) To determine if any family member will accept or decline an early intervention service under KRS 200.650 to 200.676, in accordance with state law, without jeopardizing other early intervention services under KRS 200.650 to 200.676;

(8) To review all records and, if appropriate, to amend records;

(9) To bring an advocate or attorney into any and all dealings with the early intervention system; and

(10) To administrative process and judicial review in accordance with KRS Chapter 13B to resolve complaints.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 351**, by Representative Long:

On page 9, line 16, after "including" by inserting "***all direct costs and***";

On page 9, line 16, after "associated" by bracketing and striking through "administrative";

On page 9, line 16, after "costs" by inserting "***including administrative and overhead expenses***";

On page 9, line 17, after "KRS 205.560" by inserting "***, and through any managed care entities providing services to Medicaid recipients***"'

On page 9, line 18, after "cabinet," by bracketing and striking through "and";

On page 9, line 19, after "pharmacies" by adding a comma "***,***";

On page 9, line 19, after "pharmacies" by bracketing and striking through the period ".";

On page 9, line 20, by deleting "***The report shall also include***"; and

On page 9, line 25, after "***Review***" by inserting "***Advisory***".

Representative A. Arnold moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative A. Arnold moved the adoption of the following **Legislative Citation No. 201**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Montgomery County High School Lady Indians Basketball Team upon earning runner-up honors in the finals of the 1998 Kentucky Girls Sweet Sixteen State Basketball Tournament. Under the leadership of Head Coach Mike Kindred, this exceptional group of athletes finished the season with an impressive 35-2 record, were rated 19th in the nation by USA Today and won the 40th District and the 10th Region Tournaments. They were also Champions of the State AAU, the Berea Holiday Tournament, the Ashland Invitational Tournament, and the Northern Kentucky Shootout. Inasmuch as the members of this extraordinary team have exhibited hard work, persistent dedication and exceptional team spirit and have contributed greatly to the winning tradition of the Montgomery County Lady Indians, this prestigious body joins Representative Adrian Arnold in recognizing the amazing talent of this team, applauding its spectacular achievements and extending best wishes for continued success in all future endeavors. **Legislative Citation No. 201** was adopted without objection.

Representative Lee moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Lee moved the adoption of the following **Legislative Citation No. 204**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends James Barnes for his initiative in bringing to fruition his goal to name July 19, "Stepparents Day." A devoted step-parent himself, Mr. Barnes demonstrated exceptional tenacity and ambition when, in appreciation of the love and dedication so many step-parents render their step-children, he created the idea to set aside a day to honor and applaud the tremendous effort made by step-parents everywhere to provide their step-children with a safe and loving environment in which to grow and prosper. The members of this distinguished body are delighted to join with Representative Jimmie Lee in applauding the efforts of James Barnes and in extending to him best wishes for continued success in the future. **Legislative Citation No. 204** was adopted without objection.

Representative Lee moved the adoption of the following **HR 139**:

HR 139, A RESOLUTION declaring July 19, 1998, "Step-parents Day."

WHEREAS, the relationship between an adult and a dependent child transcends bloodlines and surnames; and

WHEREAS, a step-parent makes a choice to take on the responsibilities of caring for the children of the step-parent's spouse; and

WHEREAS, people who are willing to take such a tremendous step, and attempt to forge a loving bond between themselves and another person's child are worthy of recognition; and

WHEREAS, Mr. James Barnes, of Elizabethtown, Kentucky, acknowledged the need for step-parents to be recognized in some way; and

WHEREAS, the term, "blended family", describes families brought together by the union of two adults who assume responsibility for each other's children; and

WHEREAS, many times a blended family is a model of stability and strength, which is essential in the proper support and nurturing of a child's life; and

WHEREAS, it is appropriate for this honorable body to reflect upon the contributions of individuals who have gone above and beyond the call of duty in order to bring love, kindness, and support into the life of a child; and

WHEREAS, the time for recognition of people who courageously welcome the opportunity to make a difference in the lives of children is long overdue;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hails and commends Mr. James Barnes of Elizabethtown Kentucky, for the love and dedication that he has shown to his own step-children.

Section 2. The commitment, sacrifice, and selfless service that many step-parents show to their step-children is immeasurable, and worthy of praise.

Section 3. The House of Representatives honors and congratulates all step-parents on July 19, 1998, for their loving service.

Section 4. When the House of Representatives adjourns this day it does so in deep appreciation of the efforts displayed by loving, competent, and compassionate adults who are willing to make a difference in a child's life.

Section 5. The Clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Mr. James Barnes, 313 North Mulberry, Elizabethtown, Kentucky 42701

There being no objection **HR 139** was adopted.

Introduction of Resolutions

HR 149, by Representative Jordan: A RESOLUTION adjourning the House of Representatives in honor of Florian and Eloise Meeks upon the occasion of their Golden Wedding Anniversary.

HR 150, by Representatives J. Adams and Bruce: A RESOLUTION in honor and memory of C. Dale Robertson.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 56**

Education: **SB 263**

State Government: **SB 159, SB 197, SB 260, HR 144**

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 145, HR 146, HR 147, HR 148**

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 242**, by Representative D. Butler:

On page 1, after line 12, by inserting the following:

"SECTION 2 A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class or an urban county government:

(1) An employee of the local board of education may report a student for investigation to the director of pupil personnel if an agreement has been entered into with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or a child suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the local board and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(2) The agreement shall establish procedures for:

  (a) Notifying the parent or guardian, or other person exercising custodial control or supervision of the child, and appropriate school officials;

  (b) Verifying the status of the child;

  (c) Releasing the child to a parent or guardian, or other person exercising custodial control or supervision of the child;

  (d) Providing counseling and advice on school attendance; and

  (e) Allowing nonpublic schools to have, upon request, a method of certifying a school age child is not subject to the provisions of this section.".

Floor Amendment No. 1 to **SB 58**, by Representative Burch:

On page 2, after line 14, by inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The commissioner of the Department of Personnel, on the recommendation of the secretary of the Cabinet for Human Resources, may extend those portions of pilot programs that were developed and approved for the purpose of maintaining a pool of available applicants for family services workers positions and the alternative classification and pay system until June 30, 2000. The Cabinet for Human Resources may promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.

Section 3. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to Cabinet for Human Resources appearing in Sections 1 and 2 of this Act shall be codified as the Cabinet for Families and Children.".

Floor Amendment No. 2 Title to **SB 58**, by Representative Burch:

By amending the title to read as follows: "AN ACT relating to Cabinet for Human Resources social workers.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 26**, by Representative Geveden:

On page 2, line 3, after the word "***in***" by inserting the word "***federal***"; and

On page 4, line 16, after the word "***in***" by inserting the word "***federal***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 26**, by Representative Hoffman:

On page 11, lines 25 and 26, by deleting all new language;

On pages 12 through 17, by deleting sections 5 through 11 in their entirety;

On page 17, line 21, by deleting "Section 12" and inserting "Section 5" in lieu thereof; and

On page 18, line 6, by deleting "Section 13" and inserting "Section 6" in lieu thereof.

Floor Amendment No. 2 to **SB 248**, by Representative Brown:

On page 1, line 5, by adding after the word "***lots***" the words "***of private residential communities***" and by deleting the words "***located on private property***".

Report of Committees

The Committee on Education reported **SB 11, SB 168, SB 265,** with Committee Substitute attached thereto, **SB 303,** with Committee Substitute attached thereto, and **SCR 126** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 11, AN ACT relating to higher education employees.

WHEREAS, it is the responsibility of the General Assembly to provide adequate resources to support a quality system of public postsecondary education;

WHEREAS, it is the responsibility of the General Assembly to promote the development of a strategic agenda to improve effectiveness, efficiency, and accessibility of postsecondary education in the state;

WHEREAS, it is critical to the economic well-being of the state that the level of education of Kentucky citizens be improved;

WHEREAS, the 1997 Postsecondary Education Improvement Act focused attention on governance, funding, and clarification of missions of the postsecondary education institutions;

WHEREAS, the public as a whole, and in particular the students, have a right to expect excellence in teaching, scholarship, and service by highly-qualified faculty;

WHEREAS, the faculty has a vested interest in assuring that all faculty, including tenured faculty perform at a high level in teaching, scholarship, and service;

WHEREAS, a comprehensive, formal, periodic evaluation of faculty performance, developed by the faculty and addressing the unique needs of individual faculty assignments with a primary purpose of ensuring continuous support for faculty development can enhance the overall vitality of postsecondary education in the state; and

WHEREAS, there is evidence that the majority of the postsecondary education institutions in Kentucky have begun the development and implementation of periodic, post-tenure review systems to promote excellence;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The faculty and administration of each public postsecondary education institution is requested to continue the development of a comprehensive, periodic post-tenure review system that meets the unique needs of the institution, the units within the institution, and individual assignments. In the development of the system, the faculty and administration are encouraged to consider the following:

(1) Engaging faculty and administrators across the institution or among units within the institution in a systematic developmental process with sufficient time for input, piloting, and refining ideas;

(2) Developing indicators of quality of teaching, scholarship, and service;

(3) Identifying resources needed to support faculty development;

(4) Determining appropriate mechanisms for peer feedback; and

(5) Keeping the board of trustees or board of regents informed during the developmental process.

Section 2. The Council on Postsecondary Education is encouraged to conduct a status review of post-tenure review in Kentucky public postsecondary institutions by September 1, 1999, and to report its findings no later than October 1, 1999, to the Interim Joint Committee on Education.

SB 168, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is certified for the position he holds, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) ***1.*** No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except***:***

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district***; or***

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

SB 265, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.048 is amended to read as follows:

(1) ***The General Assembly hereby finds that:***

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There ***are***[~~is~~] hereby established[~~ an~~] alternative certification program ***options as described in subsections (3) through (5) of this section***.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board ***inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.***

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards ***and procedures for the alternative certification options described in this section***[~~for local district training programs and the approval and evaluation process for these programs~~].

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

(a) The application contains documentation of all education and work experience;

(b) The candidate has documented ten (10) years of exceptional work experience in the area in which

certification is being sought;

(c) The candidate possesses a bachelor's degree, with a grade point average of two and five tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution;

(d) The local board provides a plan to assure that the teacher candidate is supervised by a fully certified teacher in the subject area and regularly observed in the classroom and while conducting other teaching duties. An annual written evaluation shall be provided and submitted to the Office of Teacher Education and Certification; and

(e) The candidate shall complete an intensive eight (8) week course of study prior to initial employment as a public school teacher. The training shall be designed to meet local needs and be provided by or contracted by the local school district. The training shall focus on Kentucky teacher competencies and shall utilize teaching methods of demonstrated effectiveness.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

(3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification ***for a teacher at any grade level***. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for [~~:~~

~~1. General knowledge;~~

~~2. Communication skills; and~~

~~3.~~]***content*** knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(d)[~~(2)~~] Upon meeting the participation requirements as established in ***this*** subsection[~~ (1) of this section~~], the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(e)[~~(3)~~]The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) ***Option 3: Certification of a professional from a postsecondary institution:***[~~Subsections (1) to (3) of this section notwithstanding,~~] A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally- or nationally-accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under Section 2 of this Act.

Section 2. KRS 161.046 is amended to read as follows:

(1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a ***specific*** subject

area[~~ where there is a critical teacher shortage on a statewide or local district basis~~] and who has met the requirements for certification as an adjunct instructor established by the Education Professional Standards Board.

(2) The Education Professional Standards Board shall adopt administrative regulations governing the qualifications and utilization of adjunct instructors. These administrative regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate[~~ and shall establish and require competency tests if deemed necessary~~].

(3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

(4) Local school boards may contract with certificated adjunct instructors for part-time services on an hourly, daily or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position ***that will result in the displacement of***[~~for which~~] a qualified teacher with a regular certificate ***who is already employed in the district***[~~is available at the time of the signing of the contract~~].

(5) An orientation program shall be developed and implemented for adjunct instructors by the local school board.

Section 3. KRS 161.049 is amended to read as follows:

(1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.

(2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the Department of Education. The training shall include content and procedures for the evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.

(3) A local school district seeking to hire a teacher pursuant to ***subsection (3) of Section 1 of this Act***[~~KRS 161.048~~] shall submit a plan for ***a local district***[~~an~~] alternative training program to the Department of Education and have it approved in accordance with administrative regulations established by the Education Professional Standards Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a state-approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.

(4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge and skills and include, but not be limited to, the following components:

(a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.

(b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.

(c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.

(5) At least two hundred fifty (250) hours of formal instruction shall be provided in all three (3) phases of the program combined.

(6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to KRS 161.030. The support team shall make one (1) of the

following recommendations:

1. Approved: recommends issuance of certificate to complete the internship;
2. Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or
3. Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

The Committee Substitute to **SB 265** is as follows:

AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.048 is amended to read as follows:

(1) ***The General Assembly hereby finds that:***

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There ***are***[~~is~~] hereby established[~~ an~~] alternative certification program ***options as described in subsections (3) through (5) of this section***.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board ***inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.***

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards ***and procedures for the alternative certification options described in this section***[~~for local district training programs and the approval and evaluation process for these programs~~].

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

(a) The application contains documentation of all education and work experience;

(b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

(c) The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution; and

(d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular provisional certificate.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

(3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification ***for a teacher at any grade level***. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four

(4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for [~~:~~

~~1. General knowledge;~~

~~2. Communication skills; and~~

~~3.~~]***content*** knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(d)[~~(2)~~] Upon meeting the participation requirements as established in ***this*** subsection[~~ (1) of this section~~], the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(e)[~~(3)~~]The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) ***Option 3: Certification of a professional from a postsecondary institution:***[~~Subsections (1) to (3) of this section notwithstanding,~~] A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally- or nationally-accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under Section 2 of this Act.

(6) A teacher certified under subsections (2) to (5) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

Section 2. KRS 161.046 is amended to read as follows:

(1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a ***specific*** subject area[~~ where there is a critical teacher shortage on a statewide or local district basis~~] and who has met the requirements for certification as an adjunct instructor established by the Education Professional Standards Board.

(2) The Education Professional Standards Board shall adopt administrative regulations governing the qualifications and utilization of adjunct instructors. These administrative regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate[~~ and shall establish and require competency tests if deemed necessary~~].

(3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

(4) Local school boards may contract with certificated adjunct instructors for part-time services on an hourly, daily or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position ***that will result in the displacement of***[~~for which~~] a qualified teacher with a regular certificate ***who is already employed in the district***[~~is available at the time of the signing of the contract~~].

(5) An orientation program shall be developed and implemented for adjunct instructors by the local school board.

Section 3. KRS 161.049 is amended to read as follows:

(1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.

(2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the Department of Education. The training shall include content and procedures for the

evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.

(3) A local school district seeking to hire a teacher pursuant to ***subsection (3) of Section 1 of this Act***[~~KRS 161.048~~] shall submit a plan for ***a local district***[~~an~~] alternative training program to the Department of Education and have it approved in accordance with administrative regulations established by the Education Professional Standards Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a state-approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.

(4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge and skills and include, but not be limited to, the following components:

(a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.

(b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.

(c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.

(5) At least two hundred fifty (250) hours of formal instruction shall be provided in all three (3) phases of the program combined.

(6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to KRS 161.030. The support team shall make one (1) of the following recommendations:

1. Approved: recommends issuance of certificate to complete the internship;
2. Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or
3. Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

SB 303, AN ACT relating to classified employees in local school districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.011 is amended to read as follows:

(1) ***(a)*** "Classified employee" ***means***[~~shall mean~~] an employee of a local district who is not required to have certification for his position as provided in KRS 161.020***; and***

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult and Technical Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. ***Contracts with classified employees shall be renewed annually except contracts with the following employees:***

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (6) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) ***Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.***

(7) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(8) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(9)[~~(7)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(10)[~~(8)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 2. Whereas several dates cited in this Act occur before the normal effective date for Acts of the 1998 Regular Session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

The Committee Substitute to **SB 303** is as follows:

AN ACT relating to classified employees in local school districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.011 is amended to read as follows:

(1) ***(a)*** "Classified employee" ***means***[~~shall mean~~] an employee of a local district who is not required to have certification for his position as provided in KRS 161.020***; and***

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid

and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult and Technical Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. ***Contracts with classified employees shall be renewed annually except contracts with the following employees:***

- ***(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.***
- ***(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (6) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.***

(6) ***Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.***

(7) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

- ***(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.***
- ***(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.***
- ***(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.***

(8) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

- (a) Terms and conditions of employment;
- (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
- (c) Discipline guidelines and procedures that satisfy due process requirements.

(9)[~~(7)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(10)[~~(8)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 2. Whereas several dates cited in this Act occur before the normal effective date for Acts of the 1998 Regular Session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

SCR 126, A CONCURRENT RESOLUTION creating a Task Force on Adult Education.

WHEREAS, the 1997 Kentucky Literacy Survey found that 340,000 Kentuckians lack the basic literacy skills necessary to perform efficiently at work, at home, and in the community; and

WHEREAS, the 1997 Kentucky Literacy Survey found that 656,000 Kentuckians are functioning at such a low skill level that it will likely interfere with their ability to advance in the workplace; and

WHEREAS, literacy skills affect the economic well-being of Kentuckians with individuals who have higher literacy levels being much more likely to be employed and less likely to live in poverty and need welfare assistance; and

WHEREAS, the literacy skills of parents strongly relate to the educational future of their children with those individuals who have higher literacy skills being more likely to read to their children, help with homework, meet with teachers, participate in parent-teacher organizations, and provide printed materials in the home; and

WHEREAS, the adult literacy programs are currently serving only 5% of Kentucky's undereducated adults and many of the program's participants are dropping out prematurely; and

WHEREAS, the problem is continuing to grow as more students are now dropping out of high school than are receiving their high school equivalency diploma after passing the General Educational Development tests; and

WHEREAS, the General Assembly created the Adult Education and Literacy Initiative Fund in 1997 to research the effectiveness of different program models that can provide valuable information for addressing the problems of adult education and literacy in Kentucky; and

WHEREAS, the General Assembly recognizes the importance of public involvement in the process of finding solutions to better meet the needs of undereducated Kentuckians;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. (1) There is hereby established a Task Force on Adult Education to develop recommendations and an implementation plan for raising the literacy level and educational attainment of Kentucky's adults who have not graduated from high school or who have poor literacy skills. Its membership shall include:

(a) Six (6) Senate members appointed by the President of the Senate;

(b) Six (6) House of Representatives members appointed by the Speaker of the House; and

(c) Six (6) members appointed by the Governor.

The Governor shall serve as chair.

(2) The Task Force shall review the status of Kentuckians who have not graduated from high school or who have poor literacy skills; the adequacy of current programmatic efforts to address the problem; and recommendations to improve efforts to address the problem.

(3) The Task Force shall be authorized to contract for consultant services.

Section 2. The Task Force shall report its findings and recommendations, including an implementation plan and timeline, with enabling legislation to the Governor and the Legislative Research Commission no later than September 1, 1999.

Section 3. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Calendar

SB 224, SB 360, SCR 131, SB 228, SB 351, SB 226, SB 399, SB 217, SB 373, SB 376, SB 92, SB 252, SB 361, SB 438, SB 390, SB 357, SB 392, HR 133, SB 311, SB 313, SB 318, and **SB 364** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 248**, by Representative Brown:

On page 1, line 4, after "***a***" by inserting "***residential***" and after "***or***" by inserting "***a residential***"; and

On page 1, line 5, after "***on***" by inserting "***residential***"; and

On page 1, line 8, after "***that***" by inserting "***residential***"; and

On page 1, line 10, after "***of the***" by inserting "***residential***"; and

On page 1, line 12, after "***on***" by inserting "***residential***"; and

On page 1, line 13, after "***upon***" by inserting "***residential***"; and

On page 1, line 18, after "***on the***" by inserting "***residential***"; and

On page 2, line 6, after "***private***" by inserting "***residential***".

Floor Amendment No. 3 to House Committee Substitute to **SB 326**, by Representative Zimmerman:

On page 2, after line 2 by adding the following:

"Section 2. Whereas, the State of Kentucky has one of the greatest number of counties of any state in the nation, and the efficient operation and function of county government is essential to the economic health and well-being of the Commonwealth, the Interim Commission to Study County Government is established to study county government structure and function in Kentucky. During the 1998-1999 interim, the commission shall review the structure and function of all counties in Kentucky and issue a report on their status along with any legislative recommendations which may include a plan for the General Assembly to reduce, through consolidation in accordance with Sections 63 and 64 of the Constitution, the number of counties in Kentucky. If any plan is submitted which would call for the consolidation of any counties, it shall not require the elimination of the office of any popularly elected county official or school board member in office on the effective date of any such legislation, so long as that officer is continuously in the same office until the date of consolidation, or until the officer vacates his office, whichever shall occur first.

Section 3. The commission shall be composed of twenty-five (26) members, chosen in the following manner:

(1) Four (4) members of the General Assembly, two (2) to be appointed by the Speaker of the House of Representatives, and two (2) to be appointed by the President of the Senate;

(2) The secretary of the Cabinet for Economic Development or the secretary's designee;

(3) The Attorney General or the Attorney General's designee;

(4) The Auditor of Public Accounts or the Auditor's designee;

(5) Six (6) elected county officials, four (4) of whom shall be appointed from a list of at least twelve (12) nominees submitted jointly by the Kentucky Association of Counties and the Kentucky County Judge/Executives Association;

(6) Three (3) elected city officials, all of whom shall be appointed from a list of at least four (4) nominees submitted by the Kentucky League of Cities;

(7) Two (2) judges of the Court of Justice, of which one shall be from a multicounty Circuit Court, and one shall be from a multicounty District Court, from a list of at least three (3) nominees submitted by the Chief Justice of the Kentucky Supreme Court;

(8) One (1) person representing the area development districts submitted from a list of at least three (3) from the Kentucky Council of Area Development Districts;

(9) One (1) county attorney, from a list of at least three (3) nominees submitted by the Attorney General;

(10) One (1) county sheriff, from a list of at least three (3) nominees submitted by the Kentucky Sheriffs Association;

(11) One (1) county clerk, from a list of at least three (3) nominees submitted by the County Clerks Association;

(12) One (1) member from a list of at least three (3) superintendent nominees submitted by the Kentucky Association of School Superintendents; and

(13) Three (3) citizens, one of whom is selected from a county with a population of less than ten thousand (10,000) citizens, one of whom is selected from a county with a population between ten thousand (10,000) and twenty thousand (20,000) citizens, and one of whom is selected from a county with a population greater than twenty thousand (20,000).

The Legislative Research Commission shall appoint the members to the commission on or before August 1, 1998.

Section 4. (1) The President of the Senate and the Speaker of the House shall each designate a co-chair for the commission.

(2) Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

(3) The full commission shall meet at times it deems necessary. The commission may hold public hearings from time to time on matters within its purview. Whenever appropriate, the commission may organize itself into task groups related to the subject matter under consideration and they may meet at times they deem necessary.

(4) The commission shall provide a report with recommendations on the process of consolidating counties to the Legislative Research Commission by September 1, 1999. It is intended that the General Assembly review the report, and enact any legislation deemed necessary on the basis of the report. If the General Assembly determines that additional research is necessary, it may renew the commission from session to session until the final report is adopted and a plan for the consolidation of counties is enacted.

(5) The members of the commission shall serve for two (2) year terms which the General Assembly may renew at succeeding regular sessions. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment.

Section 5. Staff services to be utilized in completing the work of the commission are estimated to cost $50,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.".

Representative Stumbo moved that the rules be suspended to allow Licensing and Occupations to meet upon Recess to consider **SB 287**, and to waive the posting on same. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office and for a Committee on Licensing and Occupations meeting in Room 316. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 133, SB 326, SB 380, SB 121, SB 307, SB 337, SB 339, SB 353, SB 395, SJR 87, SB 95, SB 128, SB 26, SB 92, SB 217, SB 224, SB 228, SB 311, SB 313, SB 318, SB 373, SB 376, SB 390, SB 392, SB 399, SB 438,** and **SCR 131** have been posted for passage in the Orders of the Day for March 26, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **SB 233, HR 133, SB 252, SB 361, SB 364**

Orders of the Day

SB 208, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 208** be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 25, 1998 roll call on **SB 208** - Appendix.) **SB 208** was passed and the title agreed to. Representative Geveden moved that the vote by which **SB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 328, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **SB 328**. Agreed.

Representative Mason moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 328**. Agreed. Representative Mason moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 328**. Agreed. Representative Mason moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **SB 328**. Agreed.

Representative Gooch moved that **SB 328**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 25, 1998 roll call on **SB 328** - Appendix.) **SB 328**, by way of Committee Substitute as amended, was passed. Representative Gooch moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **SB 328**. Agreed; and the title was agreed to. Representative Gooch moved that the vote by which **SB 328**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table.

Agreed.

SCR 95, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of the Committee Substitute to **SCR 95**. Agreed.

Representative Nesler moved that **SCR 95**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 25, 1998 roll call on **SCR 95** - Appendix.) **SCR 95**, by way of Committee Substitute, was passed and the title agreed to. Representative Nesler moved that the vote by which **SCR 95**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **SB 34** be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 25 , 1998 roll call on **SB 34** - Appendix.) **SB 34** was passed and the title agreed to. Representative D. Butler moved that the vote by which **SB 34** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 257, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of Floor Amendment No. 2 to **SB 257**. Agreed.

Representative Siler moved that **SB 257**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 25, 1998 roll call on **SB 257** - Appendix.) **SB 257**, as amended, was passed and the title agreed to. Representative Siler moved that the vote by which **SB 257**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to reconsider the vote on **SB 208**, and that it be placed in the Orders of the Day. Agreed. **SB 208**, with Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage.

Representative D. Butler moved the adoption of Floor Amendment No. 1 to **SB 208**. Agreed.

Representative D. Butler moved that **SB 208**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 11 (See March 25, 1998 roll call on **SB 208** - Appendix.) **SB 208**, as amended, was passed and the title agreed to. Representative D. Butler moved that the vote by which **SB 208**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 309, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the rules be suspended to consider a vote on Floor Amendment No. 1 to **SB 309**. On the roll call to consider a vote on Floor Amendment No. 1 the vote was: Yeas 60, Nays 18 (See March 25, 1998, roll call on Floor Amendment No. 1 to **SB 309** - Appendix.)

Representative Siler moved the adoption of the Committee Substitute to **SB 309**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 309**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 309**. Representative Lindsay inquired if Floor Amendment No. 3 to the Committee Substitute was a piggyback to **SB 309**. The Speaker ruled that Floor Amendment No. 3 to the Committee Substitute was a piggyback to **SB 309** and, therefore, out of order.

Representative Siler moved that **SB 309**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 25, 1998 roll call on **SB 309** - Appendix.) **SB 309**, by way of Committee Substitute as amended, was passed. Representative Siler moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **SB 309**. Agreed; and the title was agreed to. Representative Siler moved that the vote by which **SB 309**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 119, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the Committee Substitute to **SB 119**. Agreed.

Representative Cave moved that **SB 119**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 25, 1998 roll call on **SB 119** - Appendix.) **SB 119**, by way of Committee Substitute, was passed and the title agreed to. Representative Cave moved that the vote by which **SB 119**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 336 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 336** be passed.

On the roll call the vote was: Yeas 92, Nays 3 (See March 25, 1998 roll call on **SB 336** - Appendix.) **SB 336** was passed and the title agreed to. Representative Marzian moved that the vote by which **SB 336** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 288, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Murgatroyd moved that **SB 288** be passed.

Representative Hoover moved the adoption of Committee Amendment No. 1 to **SB 288**. Representative Long inquired if Committee Amendment No. 1 was germane to **SB 288**. The Speaker ruled that Committee Amendment No. 1 was not germane to **SB 288**.

On the roll call on the passage of **SB 288** the vote was: Yeas 95, Nays 0 (See March 25 , 1998 roll call on **SB 288** - Appendix.) **SB 288** was passed and the title agreed to. Representative Murgatroyd moved that the vote by which **SB 288** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 295 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **SB 295** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 25, 1998 roll call on **SB 295** - Appendix.) **SB 295** was passed and the title agreed to. Representative Stein moved that the vote by which **SB 295** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 355 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **SB 355** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 25, 1998 roll call on **SB 355** - Appendix.) **SB 355** was passed and the title agreed to. Representative D. Butler moved that the vote by which **SB 355** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **SB 61** be passed.

On the roll call the vote was: Yeas 73, Nays 13 (See March 25, 1998 roll call on **SB 61** - Appendix.) **SB 61** was passed and the title agreed to. Representative Mason moved that the vote by which **SB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved that **SB 31** be passed.

On the roll call the vote was: Yeas 90, Nays 3 (See March 25, 1998 roll call on **SB 31** - Appendix.) **SB 31** was passed and the title agreed to. Representative Zimmerman moved that the vote by which **SB 31** was passed be reconsidered and said

motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the House Committee Substitute to **SB 224**, by Representative Worthington:

On page 1, line 2, after "(1)" by inserting "*(a)*"; and

On page 1, line 11, before "If" by inserting:

"*(b) The authority shall under its rural economic development assistance program designate those counties that do not meet the provisions of subsection (1)(a) of this section but meet the criteria of counties with significantly high tobacco production, and shall certify those counties as qualified counties. No county qualified under subsection (1) (a) of this section shall be denied certification based on the criteria set forth in this subsection. Criteria for designating a county with significantly high tobacco production shall include:*

1. A county with tobacco sales of ten million dollars ($10,000,000) in a year; and

2. A county with tobacco sales constituting twenty-five percent (25%) of the total agricultural sales within the county in the same year.

(c) As used in this section, "tobacco sales" within a county means the sum of the following calculations as published by the Kentucky Agricultural Statistical Services:

1. The most recent burley tobacco production estimate for the county, multiplied by the corresponding marketing year state average price for burley;

2, The most recent Type 22, Eastern Dark Fired-Cured, tobacco production estimate for the county, multiplied by the corresponding marketing year state average price for Type 22 tobacco;

3. The most recent Type 23, Western Dark Fired-Cured, tobacco production estimate for the county, multiplied by the corresponding marketing year state average price for Type 23 tobacco;

4. The most recent Type 35, One Sucker, tobacco production estimate for the county, multiplied by the corresponding marketing year state average price for Type 35 tobacco; and

5. The most recent Type 36, Green River, tobacco production estimate for the county, multiplied by the corresponding marketing year state average price for Type 36 tobacco.

(d) As used in this section, "agricultural sales" within a county means the cash receipts from farm marketings for the county for the most recent marketing year, as published by the Kentucky Agricultural Statistical Services.

(e)"; and

On page 1, lines 12 and 13, by bracketing and striking through "has an unemployment rate"; and

On page 1. line 13 by deleting " *that*".

Floor Amendment No. 21 to the House Committee Substitute to **SB 214**, by Representative Jenkins:

On page 6, line 7, after the period "." and insert the following new language:

"*Prior to the cabinet issuing a certificate that a person has successfully completed the Master Logger Program, the person shall be required to comply with the following provisions:*

(a) The person shall be required to wait for a twenty-four (24) hour waiting period prior to the cabinet issuing a Master Logger certificate. The cabinet shall notify the Master Logger applicant of the date when the cabinet has determined that the person has successfully completed the Master Logger Program. The person shall be required to wait twenty-four (24) hours from the time of notification by the cabinet and shall be required to:

1.. Travel to Frankfort where the person shall be required to spend the night; and

2. Provide proof of overnight lodging to the cabinet when personally picking up the certificate that the person has successfully completed the Master Logger Program from the Frankfort office of the cabinet;

3. Sign an affidavit attesting that the person has reviewed literature published by the cabinet depicting the horror, carnage, and devastation resulting from logging by a person who is not a Master Logger; and

4. Sign an affidavit attesting to the person's mental stability and that the decision to participate in the Master Logger Program has been carefully evaluated and that the decision is based upon facts and logic and not upon emotion.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 376**, by Representative Vincent:

On page 2, line 8 by deleting "***underinsured motorists and the***"; and

On page 2, line 9 after "***insurance***" by inserting "***, and the underinsured motorist***".

Floor Amendment No. 4 to the House Committee Substitute to **SB 26**, by Representative Anderson:

On page 18, after line 5 by inserting the following:

"SECTION 13. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Employees covered under the provisions of this chapter may, free from restraint or coercion by the public employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their public employment to effectively promote their own rights and general welfare. Public employees, collectively and individually, may not strike, but may engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither appointing authorities or their agents, nor public employees covered under the provisions of this chapter, or associations, organizations or groups of these employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion." and

On page 18, line 6, by deleting "Section 13" and inserting "Section 14" in lieu thereof.

Floor Amendment No. 5 to the House Committee Substitute to **SB 26**, by Representative Anderson:

On page 14, line 10, after the word "selections" by inserting the following: "*. If a pilot project is proposed to the Personnel Pilot Steering Committee by an executive agency proposing a pilot on collective bargaining it shall be approved by the committee and the commissioner of the Department of Personnel. However, if more than one (1) pilot on collective bargaining is proposed, the commissioner of the Department of Personnel shall decide which personnel pilot program to approve*".

Floor Amendment No. 18 to **SB 177**, by Representative Anderson:

"On page 19, after line 27, by adding the following:

SECTION 14. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Exclusive bargaining representative" means the public employee organization certified or recognized by the Department of Personnel as the exclusive bargaining representative of state government employees for the purposes of implementing a pilot project on collective bargaining;

(b) "Public employee" means any person holding a position by appointment or employment in the executive branch of Kentucky State Government and identified as being subject to the pilot project on collective bargaining by the Department of Personnel;

(c) "Public employee organization" means any bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment of public employees;

(d) "Public employer" means the executive branch of Kentucky State Government; and

(e) "Strike" means any action by a public employee in which he or she is absent from any portion of a work assignment without permission, or who abstains wholly or in part from the full performance of duties without permission from the employer for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment without permission from the employer. "Strike" includes a work slowdown, sick-out, and the withholding of services on an intermittent basis.

SECTION 15. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Personnel, with the assistance of the Labor Cabinet, shall within six (6) months of the effective date of this Act, design and carry out a pilot project to implement collective bargaining for state government employees.

(2) The pilot project shall relate to all matters pertaining to wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of any collective bargaining agreement developed and enforced as part of the pilot project.

(3) The conduct and grading of classified service examinations provided to prospective members of the classified service under KRS Chapter 18A, rating of candidates, appointment of nonclassified personnel, establishment of eligible lists from the examinations, and original appointments from the eligible lists shall not be subjects for the pilot project on collective bargaining for state government employees.

(4) The parties to any collective bargaining agreement arising under the pilot project shall reduce the agreement to writing, which the parties shall execute in order for it to be effective.

(5) The Department of Personnel and the Labor Cabinet, in the design of the pilot project, may include provisions for, but are not limited to, the following:

(a) Procedures for conducting collective bargaining negotiations;

(b) Recognition and certification of public employee organizations and exclusive bargaining representatives for the purposes of collective bargaining during the period of the pilot project;

(c) Grievance procedures and methods used for dispute resolution;

(d) Procedures for collecting and reporting on the uses of dues, fees, fair share payments, and other assessments paid by employees participating in the pilot project;

(e) Specification of unfair labor practices; and

(f) Applicability of the Open Records and Open Meetings laws to collective bargaining negotiations and other activities related to the pilot project.

(6) No state government employee shall be required to become a member of a public employee organization as a condition for securing or retaining employment during the period of the pilot project.

(7) The pilot project and any collective bargaining agreement arising from the pilot project shall expire on July 31, 1999.

(8) Laws pertaining to workers' compensation, the retirement of public employees, residency requirements, shall prevail over conflicting provisions of any collective bargaining agreement arising from the pilot project. The laws pertaining to minimum wages, overtime pay, rest periods, and occupational safety and health shall prevail over any conflicting provisions of any agreement if the terms of the agreement contain benefits or standards which are less than those required by law.

(9) No state government employee, public employee organization, or exclusive bargaining representative may participate in a strike against a public employer, or instigate or support in any manner, a strike during the period of the pilot project.

SECTION 16. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) Each agency engaged in the pilot project on collective bargaining shall prepare and submit quarterly reports to the Department of Personnel. The department shall review the reports and send them to the Governor, the Interim Joint Committee on Labor and Industry, and the Legislative Research Commission.

(2) The Department of Personnel shall submit a comprehensive report to the Governor and the Interim Joint Committee on Labor and Industry, at least sixty (60) days prior to the 2000 Regular Session of the Kentucky General Assembly. This report shall give the status of the pilot project on collective bargaining, procedures utilized by the Department of Personnel, and participating agencies to implement, monitor, and measure the effect of the pilot project, the direct and indirect costs of implementing the pilot project for the Department of Personnel, the Labor Cabinet and each participating agency, and findings and recommendations regarding the pilot project.

On page 20, line 1, by renumbering "Section 14." as "Section 17." "

Floor Amendment No. 19 to **SB 177**, by Representative Anderson:

On page 19, after line 27, by adding the following section:

"SECTION 14. KRS CHAPTER 336A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 14 to 25 of this Act, unless the context requires otherwise:

(1) "Public employer" means the state or any political subdivision of the state, including a city, county, charter county, or urban-county government, special district, school district, or a postsecondary institution as defined in KRS 164.001;

(2) "Public employee" means a person holding a position by appointment or employment in the service of a public employer, except that public employee shall not include:

(a) A supervisory, confidential, or management employee as defined by the board;

(b) An employee of the General Assembly or an employee of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;

(c) A person who is a member of the organized militia while on active duty, or while acting in any capacity as a member of the organized militia;

(d) A temporary, seasonal, or provisional employee as defined in KRS 18A.005;

(e) A member of a board, authority or commission; or

(f) Any employee whose status is similar to any of the above described employees as determined by the board.

(3) "Labor organization" means any chartered labor organization of any kind in which public employees participate and that exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment;

(4) "Exclusive representative" means a labor organization which has been designated by the State Labor Relations Board as the representative of the majority of public employees in appropriate units or has been so recognized by the public employer;

(5) "Board" means the State Labor Relations Board;

(6) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(7) "Commissioner" means the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

SECTION 15. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Public employees shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the State Labor Relations Board as the representative of the majority of public employees in an appropriate unit or recognized by a public employer as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of the unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions set out in Sections 14 to 25 of this Act shall be responsible for representing the interest of all public employees in the unit without discrimination.

SECTION 16. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

The public employer and the labor organization that has been designated as the exclusive bargaining representative of public employees in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively.

SECTION 17. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Public employers, their representatives or their agents are prohibited from:

(a) Interfering, restraining, or coercing public employees in the exercise of the rights to bargain collectively;

(b) Dominating or interfering with the formation, existence, or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; except that nothing in Sections 14 to 25 of this Act, or in any other provisions in the Kentucky Revised Statutes, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership in the labor organization on or after the thirtieth day following the beginning of the employment or on the effective date of the agreement, whichever is later;

(d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition or complaint or given any information or testimony under Sections 14 to 25 of this Act; or

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Public employees in the exercise of the right guaranteed in subsection (1) of Section 15 of this Act, and

2. A public employer in the selection of his or her representative for the purposes of collective bargaining or the adjustment of grievances; or

(b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions set forth in Sections 14 to 25 of this Act as the exclusive representative of public employees in an appropriate unit.

(3) For purposes of Sections 14 to 25, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party.

SECTION 18. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Whenever in accordance with administrative regulations and as may be prescribed by the State Labor Relations Board a petition has been filed:

(a) By a public employee or group of public employees or any labor organization acting in behalf of thirty percent (30%) of the employees who have signed union affiliation cards and the union showing proof of representation who:

1. Wish to be represented for collective bargaining by a labor organization as exclusive representative, or

2. Assert that the labor organization which has been certified or is currently being recognized by the public employer as the bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) By the public employer alleging that one (1) or more labor organizations has presented to it a claim to be recognized as a representative of the majority of public employees in an appropriate unit;

The board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the public employees desire to be represented and shall certify the result of the election.

(2) The board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed by Sections 14 to 25 of this Act, the unit appropriate for the purposes of collective bargaining, based on the factors as community of interest, wages, hours, and other working conditions of the public employees involved; the history of collective bargaining; and the desires of the public employees.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative of all the public employees in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by a public agency by mutual consent.

(5) No election shall be directed by the board in any bargaining unit where there is in force and effect a valid collective bargaining agreement. However, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than three (3) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

SECTION 19. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Violations of the provisions of Sections 14 to 25 of this Act shall be deemed to be unfair labor practices remedial by the board in the following manner.

(1) Whenever it is charged by a public employer or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the board, or any hearing officer designated by the board, shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If upon the preponderance of the evidence presented the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, the board shall issue a final order requiring that person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of public employees with or without back pay, as will effectuate the policies of Sections 14 to 25 of this Act. The final order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the evidence presented the board is not of the opinion that the person named

in the charge has engaged in or is engaging in the unfair labor practice, then the board shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his discharge. No final order of the board shall require the reinstatement of any individual who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the board at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the board may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

SECTION 20. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) If after a reasonable period, but in no event less than thirty (30) days from the date negotiations began over the terms of a new collective bargaining agreement or modifications in an existing agreement, the parties to the negotiations are deadlocked, either party or the parties jointly may petition the board, by certified mail, return receipt requested, or by registered mail, to initiate fact finding.

(2) Upon receipt of a petition to initiate fact finding, the commissioner shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the commissioner is empowered to utilize his office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the commissioner's investigation, and if a settlement between the parties has still not been reached, the commissioner shall within five (5) days appoint a qualified and disinterested person as the impartial chairman of a three (3) member panel to function as the fact finders. In addition to the impartial chairman, the other two (2) members of the panel shall include one (1) member named by the labor organization and one (1) member named by the employer.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the employer is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact and recommendations for solution of the dispute. The panel shall cause all of its written findings, recommendations, and opinions to be served on the employer, the labor organization, and released to the public. Expenses incurred by the three (3) member panel in this section shall be paid by the parties involved in the labor dispute.

(5) The commissioner may promulgate administrative regulations necessary to carry out the fact-finding procedures set forth in this section. However, unless the parties agree to extend the time for the hearings, the hearings must be completed with recommendations from the fact-finding panel, within one hundred twenty (120) days from the date the petition to initiate the fact-finding procedure was received by the commissioner.

(6)(a) If the parties are unable to reach an agreement after exhausting the dispute resolution procedures authorized in subsections (1) to (5) of this section, the issues in dispute shall be submitted to arbitration. An impartial arbitrator, selected by the parties, shall conduct arbitration proceedings in accordance with guidelines established by the commissioner. If the parties are unable to agree on selection of an impartial arbitrator within a reasonable time as determined by the commissioner, one shall be designated by the commissioner. The commissioner shall establish the date arbitration proceedings shall commence and those proceedings shall be concluded within thirty (30) days from the date they commence.

(b) During arbitration proceedings, the arbitrator shall identify the issues in dispute and direct each of the parties to submit their respective last best offer. Within thirty (30) days following conclusion of the arbitration proceedings, the arbitrator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it and upon the record made before it. The decision of the arbitrator shall be conclusive and binding on the parties.

SECTION 21. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Except as hereinafter provided, when a labor organization has been designated in accordance with the provisions hereof as the exclusive representative of public employees in an appropriate unit, the chief executive officer of the political subdivision, whether elected or appointed, or his designated authorized representative or authorized representatives, shall represent the public employer in collective bargaining with the employee organization.

SECTION 22. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of Sections 14 to 25 of this Act and signed by the chief executive officer of the political subdivision or his representative. No publication of the agreement shall be required to make it effective. The procedure for the making of an agreement between a political subdivision and a labor organization provided by Sections 14 to 25 of this Act shall be the exclusive method of making a valid agreement for public employees represented by a labor organization.

(3) Suits for violation of agreements between a public employer and a labor organization representing public employees may be brought by the parties to the agreement in the Circuit Court of the county of the employer or in cases where the state is the employer in the Franklin Circuit Court.

SECTION 23. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

Upon written authorization of any public employees within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

SECTION 24. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a State Labor Relations Board to assist in resolving disputes between public employers and public employees or their labor organization which shall be composed of three (3) members appointed by the Governor, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. The Governor shall designate one (1) member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four (4) year terms by the Governor.

(2) Each member of the board shall have been an elector in this state for at least one (1) year next preceding his appointment. Any member may be removed by the Governor for cause, shown in an administrative hearing conducted in accordance with KRS Chapter 13B. The Governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid fifty dollars ($50) and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the Labor Relations Board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint employees necessary to carry out the work of the board. All files, records, and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by Sections 14 to 25 of this Act, the board may subpoena witnesses; issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence in any matter under inquiry; and administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the Circuit Court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring the person to appear before the board, any member, or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey a court order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing, or other process or notice of the board issued under the provisions of Sections 14 to 25 of this Act, with the exception of notice requirements for administrative hearings as provided in KRS Chapter 13B, may be served personally, by certified mail, return receipt requested or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making service and setting forth the manner of service, is proof of service and a returned post-office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of Sections 14 to 25 of this Act may be served in the county in which the persons required to be served reside or may be found.

(7) The board shall promulgate, amend, or repeal any administrative regulations necessary and administratively feasible to carry out the provisions of Sections 14 to 25 of this Act. Public hearings shall be held by the board, pursuant to KRS Chapter 13A, on any proposed administrative regulation of general applicability designed to implement, interpret, or prescribe policy, procedure, or practice requirements under the provisions of Sections 14 to 25 of this Act and on any proposed change in an existing administrative regulation.

(8) The board shall be attached to the Labor Cabinet for administrative purposes.

SECTION 25. A NEW SECTION OF KRS CHAPTER 336A IS CREATED TO READ AS FOLLOWS:

No public employee shall engage in, and no public employee labor organization shall sponsor or condone any strike.

Section 26. Nothing in Sections 14 to 25 of this Act shall be interpreted or construed to nullify or void any collective bargaining agreement, contract, or memorandum or understanding between a public employer and its employees in effect on the effective date of Sections 14 to 25 of this Act."; and

On page 20, line 1, by renumbering "Section 14" as "Section 27"."

Floor Amendment No. 20 to **SB 177**, by Representative Anderson:

On page 19, after line 27 by adding the following sections:

"Section 14. The Task Force on Collective Bargaining for Public Employees is created and shall be composed of the following: the Co-Chairs of the Interim Joint Committee on Labor and Industry; the Secretary of the Labor Cabinet; the Commissioner of the Department of Personnel; the Commissioner of the Department of Local Government; three (3) members representing public employers appointed by the Legislative Research Commission; and three (3) members representing public employees appointed by the Legislative Research Commission. The Legislative Research Commission shall appoint a member of the task force to serve as chairperson.

Section 15. The Task Force on Collective Bargaining shall review legislation introduced for consideration by the 1998 General Assembly regarding collective bargaining, and any amendments or committee substitutes relating to collective bargaining. The goal of the review shall be to determine the best way to promote the improvement of the relationship among the Commonwealth of Kentucky, its political subdivisions, and its employees for matters pertaining to wages, hours, and other terms and conditions of employment. The task force shall conclude its review by issuing a report to the Legislative Research Commission and the Interim Joint Committee on Labor and Industry no later than August 1, 1999. The report may contain recommendations for legislative proposals to be considered by the General Assembly in the 2000 Regular Session.

Section 16. The members of the task force shall be reimbursed for expenses incurred to attend task force meetings.

Section 17. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the Commission."; and

On page 20, line 1 by renumbering "Section 14" as "Section 18".

Orders of the Day (Continued)

SB 21, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **SB 21**. Agreed. Representative Stumbo moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **SB 21**. Agreed.

Representative Stumbo moved that **SB 21**, by way of Committee Substitute as amended, be passed.

Representative Treesh moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **SB 21**. On the roll call the vote was: Yeas 21, Nays 70 (See March 25, 1998, roll call on **SB 21** - Appendix.) Floor Amendment No. 4 to the Committee Substitute to **SB 21** was rejected.

Representative Cave moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 21**. On the roll call the vote was: Yeas 43, Nays 47 (See March 25, 1998, roll call on - Appendix.) Floor Amendment No. 1 to the Committee Substitute to **SB 21** was rejected.

On the roll call on the passage of **SB 21** the vote was: Yeas 93, Nays 3 (See March 25, 1998 roll call on **SB 21** - Appendix.) **SB 21**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 21**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 7 to **SB 18**, by Representative Wilkey:

On page 4, after line 3, by inserting:

"Section 3. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and ***wastewater***[~~waste water~~] treatment facilities, cement kiln dust, gas and

oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;[~~and~~]

(d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government***; and***

(e) It is the intent of the General Assembly that the disposal of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, treat the disposal of this sludge by composting as an industrial process. The provisions of this subsection shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65 that disposes of its own water treatment or wastewater treatment sludge by composting on property owned by the city, county, urban-county government, charter county government, or special district.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

(3) For the disposal of water treatment sludge or wastewater treatment sludge, a permit application to establish, operate, or modify a composting site or composting facility shall require immediately the general public notice provided for in subsections (4) and (5) of KRS 224.40-310. If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing and a final decision of the secretary. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process."

Floor Amendment No. 3 to **SB 146**, by Representative Riner:

On page 3, below line 18, to insert the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any person under the age of eighteen (18) years who possess a cigar or cigarette or any other tobacco product shall be sentenced to not more than eight (8) hours of community service for each offense. The provisions of this section shall not apply to a person under the age of eighteen (18) who possesses cigars, cigarettes or other tobacco product in the presence of his or her parent or legal guardian, or spouse, or who incidentally possesses but does not use cigars, cigarettes, or other tobacco product during the course of his or her employment. The offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court. If a child fails to appear in court in response to a uniform citation issued pursuant to paragraph (b) of this subsection, the court may compel attendance of the defendant in the manner specified by law. The court trying the case may remit all or a portion of the penalty for violation of this paragraph upon disclosure by the defendant of the name of the person from whom he or she obtained the cigar, cigarette, or other tobacco product.

(b) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest or take a child into custody, for a violation of paragraph (a) of this subsection. If the citation-issuing peace officer or employee of the department receives information from the person cited as to where the cigar, cigarette, or other tobacco product was obtained, the officer or

employee may communicate that information to the county attorney."

Floor Amendment No. 4 to **SB 146**, by Representative Riner:

On page 3, below line 18, to insert the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Any person, other than a person prohibited from furnishing tobacco or tobacco products to a person under eighteen (18) years of age by another section of this chapter, who sells, gives, or otherwise furnishes a cigarette, cigar, or other smoking or chewing tobacco product to a person under eighteen (18) years of age shall be guilty of a misdemeanor and shall be sentenced to twenty (20) hours of community service.".

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon Committee Amendment No. 2 Title to **SB 21**. Agreed. Representative Stumbo moved the adoption of Committee Amendment No. 2 Title to **SB 21**. Agreed. Representative Stumbo moved that the vote by which **SB 21**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the posting be waived on **SB 263**. Agreed.

Representative Stumbo moved that **SB 248** be posted for passage in the Orders of the Day. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 151, by Representative Anderson: A RESOLUTION urging the Interim Joint Committee on Labor and Industry to study the feasibility of implementing collective bargaining for public employees throughout the Commonwealth.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Counties and Special Districts: **SB 396**

Motions, Petitions and Communications (Continued)

Representative Hoffman moved the adoption of the following **Legislative Citation No. 203**. Agreed.

Citation of Adjournment The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Michelle Lee Hammons cherished daughter of Brenda Hammons and Manuel Macias; adored sister of Crystal Hammons; devoted granddaughter of Mildred Sue and Roy Edward Hammons, and beloved great-granddaughter of Ella Mae Begley. The tragic and untimely loss of this precious child is deeply mourned by those whose lives were touched by her extraordinary presence on this earth. An enthusiastic sixth grader at Georgetown Middle School, Michelle Hammons was an exceptional student, adored by her peers and teachers. She was a vibrant and active young lady with a brilliant smile; a budding athlete who won a gold medal at the Georgetown Middle School Olympics; and a dedicated participant in the Big Brother/Big Sister Program. The life of this treasured child, who had dreams of becoming a cheerleader and veterinarian, will long be remembered for the promise it held and for the sorrow of its brevity. The members of this august body join with Representative Charles Hoffman in extending most ardent sentiments of compassion and solace to the friends and family of Michelle Lee Hammons and in adjourning this legislative day in reverent memory of this beloved young citizen of the Commonwealth. **Legislative Citation No. 203** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 202**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Mallori Jane LeCompte daughter of Charlie and Sheri LeCompte of Shelbyville, Kentucky, for her extraordinary accomplishments in the sport of gymnastics. A fifth-grade student at Heritage Elementary School, Mallori Jane competed at the State Gymnastics Championship, sponsored by the Kentucky U.S. Association of Gymnastics, and was named the 1998 Floor Exercise State Champion, the Vault State Champion and the Level 8 All-Around State Champion. In addition she received the 1998

Commitment to Excellence Award for Level 8. Mallori Jane LeCompte, coached by Rocque Umphries of Champion Gymnastics, has demonstrated phenomenal talent and an exemplary dedication to her sport. The members of this distinguished body are pleased to join Representative Marshall Long in commending this gifted young scholar and athlete for her noteworthy achievements and in extending to her the best of luck as she goes on to represent Kentucky at the Level 8 National Regionals in Cincinnati, Ohio. **Legislative Citation No. 202** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 205**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby affords its deepest appreciation to Senator Fred Bradley for his long and dedicated service to the citizens of Senate District 20 and this Commonwealth. A sixteen-year veteran of the Kentucky Senate and former Franklin County judge, this distinguished gentleman is a lawyer by profession, farmer by trade, and is owner and president of Fred's Fast Freight, Inc., one of Kentucky's finest trucking services. He was valedictorian of his class at Providence High School and a distinguished graduate of the University of Kentucky. Senator Bradley served honorably in the United States Air Force, volunteering for a tour of duty in Vietnam, serving as Commander of the 123rd Tactical Reconnaissance Wing, obtaining the rank of Brigadier General, serving as Chief of Staff of the Kentucky Air National Guard and receiving numerous accolades for his service, including the Legion of Merit and the Vietnam Service Medal. He is also an esteemed member of the Franklin County, Kentucky, and National Bar Associations. As Senator Fred Bradley has worked with great diligence and integrity on behalf of his constituents and the Kentucky General Assembly, the members of this august body are honored to join with Representative Marshall Long in wishing him sincere congratulations upon this auspicious occasion and in extending to him the best of luck in retirement. **Legislative Citation No. 205** was adopted without objection.

Representative Mason moved the adoption of the following **Legislative Citation No. 198**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of the June Buchanan School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome and Representative Paul Mason in applauding the initiative of the students of the June Buchanan School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 198** was adopted without objection.

Representative Deskins moved the adoption of the following **HR 146**:

HR 146, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Leonard "Scottie" Smith.

With deepest respect and admiration, we pay homage and tribute to Leonard "Scottie" Smith, and we pause in silent reverence for his soul.

WHEREAS, Scottie Smith was born on May 2, 1921, a native of Frankfort, Franklin County, Kentucky, and traversed these earthly bounds on March 22, 1998; and

WHEREAS, Scottie Smith was the adored son of the late Leonard A. Smith and Lena Riddle Smith; he was the devoted husband of Joyce A. Wheatley Smith; he was the loving father of a son, Melvin Smith of Frankfort; and four stepsons, Bob Peterson, Kevin Peterson, Chris Peterson and Ed Peterson, all of Louisville; and two daughters, Sandy Emerson of Lexington, and Nancy Smith Grand of Evanston, Illinois; and a stepdaughter, Lorie Johnson of Port Charlotte, Florida; and he was the proud grandfather of three grandchildren and one great-grandchild; and

WHEREAS, Scottie Smith served his country with pride as a member of the United States Army during World War II; he was a former commander of the Civil Air Patrol; he was a retired pilot; and he was a member of the American Legion Post 7 and VFW Post 4075; and

WHEREAS, Scottie Smith will be remembered as an active and involved citizen, and a highly esteemed member of the Franklin County and Jefferson County communities; he was a retired labor leader, secretary-treasurer of the Kentucky AFL-CIO, and business agent for Distillery Workers Local 24, and he helped organize other plants for the Allied Industrial Workers; he was instrumental in creating the center for labor education and research at the University of Kentucky; he built union-owned housing for the elderly; he found employment for handicapped people; and he worked to strengthen ties with other unions; and

WHEREAS, his tenacious courage and conviction for the advancement of the labor movement served as a source of strength and encouragement for others; he was revered by his peers and unflinchingly gave of himself for the rights and needs of working people; and he served his fellow workers and the entire labor movement with dedication and distinction; and

WHEREAS, the passing of Scottie Smith has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Scottie Smith, and extends to his family its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence and social consciousness Scottie Smith brought to this great Commonwealth will never be forgotten, and his influence will continue. Throughout his life, Scottie Smith demonstrated strong character and was an element of invincible strength to all the lives he touched.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Scottie Smith.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Joyce A. Wheatley Smith, 210 Southhampton Drive, Louisville, Kentucky 40223.

There being no objection **HR 146** was adopted.

Representative G. Graham moved the adoption of the following :

HR 147, A RESOLUTION adjourning the House of Representatives in celebration of the 200th year of the historic Old Governor's Mansion.

WHEREAS, the Old Governor's Mansion was built during the Federal period as the official residence for the Governor. Completed in 1798, the mansion was often referred to as "The Palace," because such notable dignitaries as Theodore Roosevelt, Andrew Jackson, James Monroe, Woodrow Wilson, Zachary Taylor, and Henry Clay graced her stately rooms; and

WHEREAS, this elegant mansion, the residence of thirty-three Kentucky Governors between 1798 and 1914, is now home to the Lieutenant Governor and family; and

WHEREAS, the mansion, situated in the heart of historic Frankfort, is an integral contribution to Kentucky's architectural legacy, providing an impressive backdrop for much of Kentucky's political and social history; and

WHEREAS, the Old Governor's Mansion is a reflection of several renovations over its many years, yet it continues to be representative of the people and events that shaped Kentucky history, and is one of the finest expressions of the Commonwealth's cultural heritage; and

WHEREAS, the Old Governor's Mansion was added to the National Register of Historic Places in 1971, an honor that demonstrates the mansion's historical value for all Kentucky citizens; and

WHEREAS, the Old Governor's Mansion is reputedly the oldest official executive residence still in use in the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives adjourns this day, March 25, 1998, in honor of the 200th anniversary of this exceptional representation of Kentucky architecture and history, the Old Governor's Mansion.

Section 2. The House of Representatives salutes the Office of Historic Properties for its outstanding efforts in maintaining and preserving the Old Governor's Mansion.

Section 3. The Clerk of the House of Representatives is directed to send this Resolution to Marie Gardener, Office of Historic Properties, Berry Hill Mansion, 700 Louisville Road, Frankfort, 40601.

There being no objection **HR 147** was adopted.

Representative Newsome moved the adoption of the following **Legislative Citation No. 199**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Caney Creek Elementary School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome in applauding the initiative of the students of Caney Creek Elementary School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 199** was adopted without objection.

Representative Newsome moved the adoption of the following **Legislative Citation No. 200**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Beaver Creek Elementary School as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are pleased to join with Representative Donnie Newsome in applauding the initiative of the students and teachers of Beaver Creek Elementary School and in extending our warmest welcome as they come to witness the proceedings of the Kentucky General Assembly. **Legislative Citation No. 200** was adopted without objection.

Representative Rader moved the adoption of the following **HR 145**:

HR 145, A RESOLUTION adjourning the House of Representatives in loving memory of Donnie Walters and urging state and local leaders to promote safe and secure neighborhoods.

WHEREAS, Donnie Walters, an outstanding citizen of North McKee, Kentucky, was born on February 24, 1941 in Jackson County, Kentucky, and traversed these earthly bounds on Thursday, February 12, 1998; and

WHEREAS, Donnie Walters was the devoted husband of the late Effie Hisel Walters, the loving father of Tony Walters, Terry Walters, Tom Walters, Donna Ann Walters, and Etosha Walters, the doting grandfather of Shalyne Walters, the son of Odell Walters and the late Hazel Allumbaugh Walters, and the brother of Joann Kerby, Faye Shearer, Betty Jones, Nancy Lamb, Mitchell Walters, and Dewey Walters; and

WHEREAS, Donnie Walters was an avid gun collector with an extensive and prized collection; and

WHEREAS, Donnie Walters was a superb craftsman skilled in making beautiful wood furniture; and

WHEREAS, Donnie Walters was murdered while asleep in his home; and

WHEREAS, Donnie Walters' untimely death must serve to spur our local and state leaders to promote safe and secure neighborhoods in which our citizens may reside, and our justice system must deter criminal action that takes the life of others;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby expresses its profound sense of sorrow upon the untimely passing of Donnie Walters, and extends to his family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Donnie Walters.

Section 3. The clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Tony Walters, 249 Soaptown Road, McKee, Kentucky 40447.

There being no objection **HR 145** was adopted.

Representative Siler moved the adoption of the following **Legislative Citation No. 192**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Adam Huff. The House of Representatives joins Representative Charles Siler in expressing its profound sympathy to family and friends of this extraordinary gentleman; cherished son of the late Irvine and Alice Farley Huff; beloved husband of Maude Huff, who preceded him in death; loving father of the former State Senator, Reverend Eugene Huff; and cherished grandfather and great-grandfather. A retired security guard at the Wright Patterson Air Force Base and a former doorkeeper for the Kentucky House of Representatives, this distinguished citizen was a veteran of World War I and a faithful member of the First Pentecostal Church. Adam Huff served both his community and his country with great diligence and honor and his significant contributions to his fellow man will long be remembered by those whose fortune it was to know him. The members of the Kentucky House of Representatives extend sincere condolences to the family and friends of Adam Huff and do hereby adjourn this legislative day in reverence of this exceptional citizen of the Commonwealth. **Legislative Citation No. 192** was adopted without objection.

Representative Horlander moved the adoption of the following **Legislative Citation No. 197**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students and teachers of DuPont Manual High School for demonstrating an exemplary interest in the democratic process and in the daily actions of the Kentucky legislature. The members of this distinguished body are pleased to join with Representative Dennis Horlander in applauding these outstanding young scholars and their dedicated instructors and in extending them a warm welcome to the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 197** was adopted without objection.

Representative Barrows moved the adoption of the following **Legislative Citation No. 206**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Ann Mary Robertson, Sayre School upon being named a National Merit Scholarship Finalist. The daughter of Walt and Corky Robertson of Woodford County and the niece of Representative Rob Wilkey, this exceptional young scholar has demonstrated outstanding academic achievements, including memberships in the National Honor Society, Tri-M Music Honor Society, and Spanish Honor Society in which she serves as Vice President. She is an AP Scholar and a member of the Math Club and Students Against

Drunk Drivers. Ann Mary has achieved a level of academic excellence and accomplishment that few students attain and which reflects her outstanding dedication and hard work toward a worthy goal. The members of this distinguished body are delighted to join with Representative Joe Barrows in commending the efforts of this remarkable young citizen of the Commonwealth and in extending to her best wishes for continued success in the future. **Legislative Citation No. 206** was adopted without objection.

Representative Stumbo moved that the posting be waived on **SB 159, SB 197, SB 171,** and **SB 396**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the House Committee Substitute to **SB 326**, by Representative Zimmerman:

On page 2, after line 2 by adding the following:

"Section 2. Whereas, the State of Kentucky has one of the greatest number of counties of any state in the nation, and the efficient operation and function of county government is essential to the economic health and well-being of the Commonwealth, the Interim Commission to Study County Government is established to study county government structure and function in Kentucky. During the 1998-1999 interim, the commission shall review the structure and function of all counties in Kentucky and issue a report on their status along with any legislative recommendations which may include a plan for the General Assembly to reduce, through consolidation in accordance with Sections 63 and 64 of the Constitution, the number of counties in Kentucky. If any plan is submitted which would call for the consolidation of any counties, it shall not require the elimination of the office of any popularly elected county official or school board member in office on the effective date of any such legislation, so long as that officer is continuously in the same office until the date of consolidation, or until the officer vacates his office, whichever shall occur first.

Section 3. The commission shall be composed of twenty-six (26) members, chosen in the following manner:

(1) Four (4) members of the General Assembly, two (2) to be appointed by the Speaker of the House of Representatives, and two (2) to be appointed by the President of the Senate;

(2) The secretary of the Cabinet for Economic Development or the secretary's designee;

(3) The Attorney General or the Attorney General's designee;

(4) The Auditor of Public Accounts or the Auditor's designee;

(5) Six (6) elected county officials, four (4) of whom shall be appointed from a list of at least twelve (12) nominees submitted jointly by the Kentucky Association of Counties and the Kentucky County Judge/Executives Association;

(6) Three (3) elected city officials, all of whom shall be appointed from a list of at least four (4) nominees submitted by the Kentucky League of Cities;

(7) Two (2) judges of the Court of Justice, of which one shall be from a multicounty Circuit Court, and one shall be from a multicounty District Court, from a list of at least three (3) nominees submitted by the Chief Justice of the Kentucky Supreme Court;

(8) One (1) person representing the area development districts submitted from a list of at least three (3) from the Kentucky Council of Area Development Districts;

(9) One (1) county attorney, from a list of at least three (3) nominees submitted by the Attorney General;

(10) One (1) county sheriff, from a list of at least three (3) nominees submitted by the Kentucky Sheriffs Association;

(11) One (1) county clerk, from a list of at least three (3) nominees submitted by the County Clerks Association;

(12) One (1) member from a list of at least three (3) superintendent nominees submitted by the Kentucky Association of School Superintendents; and

(13) Three (3) citizens, one of whom is selected from a county with a population of less than ten thousand (10,000) citizens, one of whom is selected from a county with a population between ten thousand (10,000) and twenty thousand (20,000) citizens, and one of whom is selected from a county with a population greater than twenty thousand (20,000).

The Legislative Research Commission shall appoint the members to the commission on or before August 1, 1998.

Section 4. (1) The President of the Senate and the Speaker of the House shall each designate a co-chair for the commission.

(2) Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

(3) The full commission shall meet at times it deems necessary. The commission may hold public hearings from time to time on matters within its purview. Whenever appropriate, the commission may organize itself into task groups related to the

subject matter under consideration and they may meet at times they deem necessary.

(4) The commission shall provide a report with recommendations on the process of consolidating counties to the Legislative Research Commission by September 1, 1999. It is intended that the General Assembly review the report, and enact any legislation deemed necessary on the basis of the report. If the General Assembly determines that additional research is necessary, it may renew the commission from session to session until the final report is adopted and a plan for the consolidation of counties is enacted.

(5) The members of the commission shall serve for two (2) year terms which the General Assembly may renew at succeeding regular sessions. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment.

Section 5. Staff services to be utilized in completing the work of the commission are estimated to cost $50,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.".

Floor Amendment No. 6 to **SB 33**, by Representative Barrows:

On page 1, after the enacting clause and before line 1, by inserting the following:

"WHEREAS, the Kentucky Veterans are of utmost importance to the citizens of the Commonwealth of Kentucky; and

WHEREAS, the state employees of the Commonwealth wish to recognize the efforts of the Veterans by observing the eleventh day of November as a statutory holiday; and

WHEREAS, the financial impact on the Commonwealth to add the observance of Veterans Day as a statutory holiday is estimated at four million dollars ($4,000,000) per year; and

WHEREAS, state employees do not wish to sacrifice their extra day off in conjunction with the first of January;"; and

By deleting all language from page 1, line 1, to page 1, line 21, and inserting in lieu thereof the following:

"Section 1. The Department of Personnel shall conduct a survey of all state employees and propose recommendations as to potential additions or changes to employee statutory holidays. The Department of Personnel shall report its recommendations before the Interim Joint Committee on State Government no later than its November 1998 interim meeting."

Floor Amendment No. 2 to **SB 226**, by Representative R. Adams:

On page 2, after line 21, insert the following:

Section 4. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system after July 1, 1914, or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls;[~~ and~~]

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit***; and***

(d) "Public use road" means any road that has been open to use by the general public as a matter of right without restriction for at least fifteen (15) years and has not been formally dedicated and accepted as a county road under the provisions of this chapter.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of ***the***[~~such~~] city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.220 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city, provided that the city agrees to pay the costs if any associated with any such agreement.

SECTION 5. A NEW SECTION OF KRS CHAPTER 178 IS CREATED TO READ AS FOLLOWS:

A property owner whose land adjoins a public use road shall not be denied access by another property owner with land adjoining the public use road. Any property owner denied access may enforce right of access by filing a private action with

the District Court having jurisdiction over the public use road and requesting the court to grant access through a summary proceeding establishing the road is a public use road.

Section 6. KRS 178.025 is amended to read as follows:

(1) ***Except for public use roads,*** any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions by the general public for five (5) consecutive years, shall conclusively be presumed to be a public road.

(2) In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks ***including***[~~such as~~] fences, fence posts, corner stones or other similar monuments indicating the boundary line.

(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to ***the***[~~said~~] road, and to the top of ***any*** cuts or toe of fills[~~ where such exist~~].

On page 2, on line 22, renumber "Section 4" to "Section 7".

Motions, Petitions and Communications (Continued)

Representative J. Adams moved that the rules be suspended to act upon a Resolution. Agreed.

Representative J. Adams moved the adoption of the following **HR 150**:

HR 150, A RESOLUTION in honor and memory of C. Dale Robertson.

With deepest respect, we pay homage and tribute to Dale Robertson.

WHEREAS, Dale Robertson, a native of Christian County, was born March 9, 1936, and tragically departed this earth at the age of sixty-one, on Saturday, March 7, 1998; and

WHEREAS, Dale Robertson was the adored son of C. Headley Robertson, who preceded him in death, and Flora Goode Robertson; and

WHEREAS, Dale Robertson was the devoted husband of Hilda Robertson; and

WHEREAS, Dale Robertson was the loving father of two sons, Timothy Dale Robertson, who preceded him in death, and Dale "Tinker" Robertson Jr., two daughters, Nita Jo Robertson Thomas and Tammy Robertson Moody; and proud grandfather of four grandchildren; and

WHEREAS, Dale Robertson was an Air Force veteran and a member of Veterans of Foreign Wars; and

WHEREAS, Dale Robertson was the popular owner of Duke's Pawn Shop; and

WHEREAS, Dale Robertson will be remembered with respect for generously giving to his community of Hopkinsville, Kentucky; and

WHEREAS, Dale Robertson has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its most profound sense of sorrow upon the passing of Dale Robertson and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Dale Robertson.

Section 3. That the Clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Mrs. Hilda Robertson, LaFayette Road, Hopkinsville, Kentucky 42240.

There being no objection **HR 150** was adopted.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 227**, by Representative Damron:

On page 1, on line 5, after "***that***" by deleting all material on the line; and

On page 1, by deleting line 6; and

On page 1, line 7, by deleting "***condition requires immediate medical treatment, and could expect***"; and

On page 1, line 8, after "***attention***" by deleting "***to***" and inserting in lieu thereof "***could***"; and

On page 1, line 11, after "***authorization,***" by deleting the remainder of the line and inserting "***for emergency -room screening and stabilization.***"; and

On page 1, by deleting lines 12 and 13.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the posting be waived on **HR 144**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the House Committee Substitute to **SB 373**, by Representative Bowling:

On page 1, line 13, following "***criminal proceeding***" to insert "***or in a proceeding under KRS Chapter 186 to KRS Chapter 189A***".

Motions, Petitions and Communications (Continued)

Representative Wilkey moved that the rules be suspended to withdraw Floor Amendment No. 6 to **SB 18**. Agreed.

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 2 to **SB 146**. Agreed.

Representative R. Adams moved that the rules be suspended to withdraw Floor Amendment No. 1 to **SB 226**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that he be recorded as voting "yea" on Floor Amendment No. 1 to **SB 21**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that her vote be changed from "nay" to "yea" on **SB 34**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Adams moved that he be recorded as voting "yea" on **HB 391** and **HB 632**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 401** and **SB 61**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ratliff moved that his vote be changed from "nay" to "yea" on **SB 61**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **SB 257** and **SB 34**. Agreed.

Announcements

The following meetings were announced:

Cities, 10:00 a.m., March 26, 1998.

Transportation, 10:00 a.m., March 26, 1998, Room 129.

Judiciary, Noon, Room 131, March 26, 1998.

Agriculture and Small Business, Noon, March 26, 1998.

State Government, Room 129, upon adjournment.

Counties and Special Districts, 5 minutes upon adjournment, House Chambers.

The following meeting was cancelled:

Labor and Industry, March 26, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 26, 1998.

On the roll call the vote was **Yeas 72**--J. Adams, R. Adams, Alexander, Anderson, A. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, D. Butler, Callahan, L. Clark, Coleman, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Gee, Geveden, Gooch, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Jordan, Kerr, Lee, Lovell, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 11**--Adkins, Brandstetter, D. D. Butler, Cave, Collins, Crall, Heleringer, Hoover, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, MARCH 26, 1998

FIFTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jim Miller, Lampton Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 25, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the House Committee Substitute to **SB 128**, by Representative Burch:

On page 8, line 1, By deleting "***In***" and inserting in lieu thereof the following: "***As permitted by federal law, in***".

Senate Message

Announcing passage of **HB 312, HB 313, HB 314, HB 325, HB 338, HB 369, HB 414, HB 430, HB 444, HB 446, HB 449, HB 454, HB 469, HB 499, HB 503, HB 518, HB 529, HB 547, HB 566, HB 587, HB 592, HB 634, HB 638, HB 640, HB 643, HB 652, HB 658, HB 666, HB 680, HB 708, HB 714, HB 742, HB 757, HB 765, HB 769, HB 780, HB 789, HJR 95, HJR 121, HCR 126, HB 783, SB 319, SB 344, SB 368, SB 386, SB 387, SCR 125, HB 36, HB 39, HB 81, HB 60, HB 85, HB 165, HB 206, HB 211,** and **HB 267**. Message received on **HB 48**: The Senate has passed **HB 48** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 53**: The Senate has passed **HB 53** with Senate Committee Substitute and Senate Floor Amendment No. 12, Senate Floor Amendment No. 11, Senate Floor Amendment No. 13, and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 90**: The Senate has passed **HB 90** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 127**: The Senate has passed **HB 127** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 128**: The Senate has passed **HB 128** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 132**: The Senate has passed **HB 132** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 160**: The Senate has passed **HB 160** with Senate Committee Substitute and Senate Floor Amendment No. 3 and respectfully requests concurrence of this Honorable Body. Message received on **HB 200**: The Senate has passed **HB 200** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 266**: The Senate has passed **HB 266** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 280**: The Senate has passed **HB 280** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 282**: The Senate has passed **HB 282** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 315**: The Senate has passed **HB 315** with Senate Committee Substitute, Senate Floor Amendment No. 21, Senate Floor Amendment No. 33, Senate Floor Amendment No. 24, Senate Floor Amendment No. 25, Senate Floor Amendment No. 28 and respectfully requests concurrence of this Honorable Body. Message received on **HB 318**: The Senate has passed **HB 318** with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 332**: The Senate has passed **HB 332** with Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 393**: The Senate has passed **HB 393** with Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 423**: The Senate has passed **HB 423** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 471**: The Senate has passed **HB 471** with Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body Message received on **HB 495**: The Senate has passed **HB 495** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 511**: The Senate has passed **HB 511** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 551**: The Senate has passed **HB 551** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 582**: The Senate has passed **HB 582** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 583**: The Senate has passed **HB 583** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 641**: The Senate has passed **HB 641** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 649**: The Senate has passed **HB 649** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 673**: The Senate has passed **HB 673** with Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 739**: The Senate has passed **HB 739** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 756**: The Senate has passed **HB 756** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 785**: The Senate has passed **HB 785** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 810**: The Senate has passed **HB 810** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HCR 114**: The Senate has passed **HCR 114** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative Moberly moved that the rules be suspended to grant floor privileges to the president-elect of Eastern Kentucky University. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 27, HB 130, HB 151, HB 249, HB 305, HB 434, HB 545, HB 614, HB 644, HB 668, SB 13, SB 31, SB 34, SB 45, SB 61, SB 76, SB 103, SB 114, SB 167, SB 259, SB 288, SB 295, SB 336, SB 355** and **SJR 76** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:20 p.m.) **HB 27, HB 130, HB 151, HB 249, HB 305, HB 434, HB 545, HB 614, HB 644,** and **HB 668** delivered to the Senate and signed by the President. Delivered to the Governor on March 26, 1998 at 4:40 p.m..

Representative Hatcher moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Hatcher moved the adoption of the following **Legislative Citation No. 216**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby affords deepest esteem and sincere welcome to Pastor James E. Miller, "God's Waterboy," as he honors this body by giving the invocation upon commencement of this day of Regular Session of the Kentucky General Assembly, March 26, 1998. Pastor Miller is in his 28th year as pastor of the historic Lampton Baptist Church in Louisville, which celebrates its 132nd Anniversary this year. Known as the "Church of the No Big I's and Little You's," this devoted congregation has been rendered invaluable spiritual guidance and counsel by this man continues to encourage the members of his church to, "Do all things decent and in order." Pastor Miller was educated at Butler College, Prairie View A&M, Southern Methodist University and Southwestern Baptist Theological Seminary. In addition, he is listed in the Who's Who of American Colleges and Universities and has had conferred upon him a Master's of Sacred Theology and Doctorate of Humane Letters. This distinguished gentleman, along with his beloved wife, Doris, Principal of Stephen Foster Elementary School, is applauded for his faithful service both to his congregation and his community. The members of this august body are pleased to join Representative E. Porter Hatcher, Jr. in welcoming Pastor James E. Miller to the Chambers of the Kentucky House of Representatives. **Legislative Citation No. 216** was adopted without objection.

Representative Rader moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Rader moved the adoption of the following **Legislative Citation No. 213**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its most sincere esteem to Carl Hurley for the extraordinary years he has spent educating and entertaining the citizens of this fine Commonwealth. Born in 1941 in a cabin in the Appalachian foothills of Laurel County, Kentucky, Carl Hurley received a doctorate in education from the University of Missouri and later returned to his alma mater, Eastern Kentucky University, where he served as a professor and coordinator of secondary education programs. It was there he was discovered while speaking at a school conference when, by virtue of his humor and talent, he impressed an attendee who asked him to speak to his company. This began a phenomenal career of public speaking during which Carl Hurley has demonstrated a unique and invaluable talent as a storyteller and humorist combined with the ability to convey a deeper message. This stellar orator has received such notable accolades as the Council of Peers Award from the National Speakers Association and the Top Discovery in the Field of Humor by the International Platform Association; he was named the Goodwill Ambassador of London, Kentucky, and elected to the Hall of Distinguished Alumni at Eastern Kentucky University. Inasmuch as Carl Hurley is hereby applauded for the immense contributions he has made to his fellow citizens both as a highly-regarded educator and a respected speaker, the members of this august body are pleased to join with Representative Marie Rader in paying tribute to this beloved son of the Commonwealth for "a lifetime of making people laugh," and in extending to him best wishes for his continued success. **Legislative Citation No. 213** was adopted without objection.

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative

Citation. Agreed. Representative Hoffman moved the adoption of the following **Legislative Citation No. 207**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Georgetown College Basketball Team upon winning the prestigious NAIA National Title. The phenomenal talent and dedication that has been demonstrated by the members of this team serve as a stellar example to young athletes of this Commonwealth, proving that tireless ambition and unwavering perseverance lead to tremendous victories. The members of the Kentucky House of Representatives are delighted to join with Representative Charlie Hoffman in applauding the accomplishments of the Georgetown College Basketball Team and in extending to them best wishes for continued athletic success. **Legislative Citation No. 207** was adopted without objection.

Representative Johns moved the adoption of the following **Legislative Citation No. 208**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of James Bertrand Reid, Jr.. This revered head coach of the Georgetown College Men's Basketball Team will long be remembered for his exemplary conduct, both on and off the court. This outstanding native of Beaver Dam, Kentucky, has left a legacy of integrity and dedication which is this day celebrated by all those whose fortune it was to know him. Inducted into the NAIA Hall of Fame on March 11, 1996, he was named KIAC Coach of the Year five times and was also the 1994 and 1996 NAIA Coach of the Year. During his extraordinary tenure, he achieved numerous milestones never before reached by the Georgetown College Men's Basketball Program. The members of this distinguished body are honored to join Representative Susan Johns in paying tribute to this fine gentleman who is sorely missed by his loving wife, Nancy, and his devoted children, Jack and Shannon, and in adjourning this day by remembering this faithful and conscientious man as his own words have instructed us: "If one wins a few basketball games in life, that is good. However, I just want to be remembered as a child of God." **Legislative Citation No. 208** was adopted without objection.

Representative Colter moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Colter moved the adoption of the following **Legislative Citation No. 209**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Clay County High School Varsity Choir for demonstrating an exemplary interest in the democratic process and daily actions of our Kentucky legislature. This talented young citizen has endeavored to broaden understanding of democracy and government and is hereby commended for efforts. The members of the Kentucky House of Representatives are pleased to join with Representative Barbara White Colter in applauding the initiative of and in extending a welcoming hand as this exceptional choir, under the direction of Melissa Doll, entertains the members of the Kentucky House of Representatives with a song. **Legislative Citation No. 209** was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolution:

Health and Welfare: **SB 424**

Labor and Industry: **HR 151**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 149**

Report of Committees

The Committee on Counties and Special Districts reported **SB 396** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 396, AN ACT relating to jailers' salaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.245 is amended to read as follows:

(1) The jailer shall receive a monthly salary from the county jail operating budget.

(2) In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on ***January 6, 1999***[~~July 1, 1982~~], shall be entitled to a level of compensation[~~ in calendar year 1982~~] which shall be ***at least a yearly minimum salary of twenty thousand dollars ($20,000)***[~~equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000, whichever is greater~~]. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527.[~~ In the event~~

~~that a jail was closed during calendar year 1981, the secretary of finance may, upon proper documentation by the jailer, direct that a prior calendar year's level of compensation be used as a basis for setting the jailer's compensation pursuant to this section.~~]

(3) The jailer's ***yearly***[~~monthly salary for the period July, 1982, through December, 1982, shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982, divided by six (6).~~

~~(4) Except as provided in subsection (5) of this section, the jailer's~~] compensation[~~ for 1983 and subsequent years~~] shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.

[~~(5) Effective January 6, 1986, the salary for jailers in any county where there is no jail and the jailer does not transport prisoners shall be twelve thousand dollars ($12,000) per year.~~]

The Committee on State Government reported **HR 144, SB 159,** and **SB 197** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 144, A RESOLUTION relating to the Outstanding Youth Leadership Award.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky Outstanding Youth Leadership is hereby created.

Section 2. The House of Representatives Outstanding Youth Leadership Award shall be presented to each young man who attains the rank of Eagle Scout of the Boy Scouts of America.

Section 3. The award shall be presented, as provided above, upon the written request of any member of the House of Representatives to the Speaker of the House when the House is in session or to the Director of the Legislative Research Commission when the House is not in session. A vote of the House shall not be necessary in order for the award to be presented.

Section 4. The award may be presented retroactively to any person who has achieved the rank of Eagle Scout.

SB 159, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;[~~ and~~]
(7) Coal Marketing and Export Council***; and***
(8) Office of Coal Marketing and Export.

Section 2. KRS 154.12-250 is amended to read as follows:

(1) The Coal Marketing and Export Council is established within the Office of the Governor. The council shall provide direction to the Governor in marketing efforts targeted to increasing opportunities for Kentucky coal and other products and it shall carry out other duties and responsibilities as assigned by the Governor.

(2) The Office of Coal Marketing and Export is established within the Office of the Governor. The office shall carry out the purposes of the council, and provide other staff support as is deemed necessary.

(3) All personnel, equipment, supplies, and records relating to the Coal Marketing and Export Council shall be transferred to the Office of Coal Marketing and Export in the Office of the Governor.

Section 3. The General Assembly confirms Executive Order 96-921, dated July 15, 1996, to the extent that it is not otherwise confirmed or superseded by this Act.

SB 197, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Appalachian Commission for the purpose of developing a comprehensive plan for the Appalachian region of Kentucky in the context of development planning for the Commonwealth as a whole. Its goal shall be the unification of resources from both the public and private sectors to achieve sustainable economic development and an improved quality of life in the region.

(2) The commission shall be attached to the Governor's Office for administrative purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The membership of the commission shall consist of forty-five (45) members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under subsection (1) of Section 1 of this Act.

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the Tourism Cabinet; secretary of the Cabinet for Human Resources; secretary of the Cabinet for Workforce Development; secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; commissioner of the Department of Education; commissioner of the Department of Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity; and

2. Nine (9) at-large members.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2. and subsection (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall serve as chair of the commission. The vice chair shall be appointed by the Governor and serve at the pleasure of the Governor.

(2) The duties of the commission shall include, but not be limited to:

(a) Reviewing strategic planning recommendations from government agencies, the private sector, and the commission's working teams and committees;

(b) Facilitating coordination and integration of regional development activities;

(c) Auditing progress within the region;

(d) Participating in the development of the Kentucky Appalachian Development Plan on an annual basis;

(e) Providing independent leadership in promoting projects and activities that:
  1. Create opportunities for self-sustaining economic development; and
  2. Improve the quality of life for the citizens of eastern Kentucky;
(f) Advising the Governor and his cabinet on policy matters affecting eastern Kentucky;
(g) Creating multidisciplinary working teams in areas of special concern and interest; and
(h) Holding hearings, conducting seminars, sponsoring policy studies, and rendering advice to the Governor regarding development strategies for Appalachian Kentucky.

(3) The commission staff shall consist of an executive director, advisory council and working team liaison, and administrative secretary, all of whom shall be appointed by and serve at the pleasure of the Governor.

(4) By December 1 of each year, the commission shall report to the General Assembly its recommendations for implemented action, legislative or otherwise.

Section 4. Commission members listed in subsection (1)(a) and (b)1. of Section 2 of this Act who are serving on the effective date of this Act shall continue to serve during their terms of office. Members listed in subsection (1)(b)2. and subsection (1)(c) of Section 2 of this Act who are serving on the effective date of this Act shall serve until Oct. 31, 1999, and may be reappointed. Beginning on Nov. 1, 1999, members listed in subsection (1)(b)2. and subsection (1)(c) of Section 2 of this Act shall be appointed as follows: three (3) members to a term of one (1) year, four (4) members to a term of two (2) years, four (4) members to a term of three (3) years, and four (4) members to a term of four (4) years.

Section 5. (1) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the secretary of the Cabinet for Human Resources appearing in subsection (1)(a) of Section 2 of this Act shall be codified as the secretary of the Cabinet for Families and Children and the secretary of the Cabinet for Health Services.

(2) If the reorganization of the Tourism Cabinet into the Tourism Development Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Tourism Cabinet appearing in subsection (1)(a) of Section 2 of this Act shall be codified as the Tourism Development Cabinet.

(3) If the reorganization of the Department of Local Government into the Department for Local Government is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Department of Local Government appearing in subsection (1)(a) of Section 2 of this Act shall be codified as the Department for Local Government.

Section 6. The General Assembly confirms, to the extent it is not otherwise confirmed or superseded by this Act, Executive Order 96-903, dated July 11, 1996, amended and superseded in part by: Executive Order 96-955, dated July 18, 1996; Executive Order 96-977, dated July 23, 1996; and Executive Order 96-1296, dated September 25, 1996.

The Committee on Education reported **SB 263** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 263, AN ACT relating to the Kentucky Foundation for the Arts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management and Economic Analysis consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:
  (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.
  (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve

four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the Education, Arts, and Humanities Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

The Committee on Transportation reported **HR 136** and **SB 440** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 136, A RESOLUTION urging the Transportation Cabinet to review the need to redesign and reconstruct all or parts of the Daniel Boone Parkway to address safety concerns, reduce motor vehicle accidents, and increase economic development opportunities.

WHEREAS, the Daniel Boone Parkway stretches from Interstate 75 in London in Laurel County through the breadth of Clay and Leslie Counties before ending at KY 15 in Hazard in Perry County; and

WHEREAS, according to the Kentucky Accident Reporting System, there were 116 accidents on the Daniel Boone Parkway in 1996; and

WHEREAS, of the 116 accidents, 7 were fatal accidents killing 10 people, 40 were injury accidents hurting 85 people, and 69 were accidents involving property damage; and

WHEREAS, the majority of these accidents occurred during the day under clear, dry road conditions, involving local residents who are familiar with travelling the Daniel Boone Parkway; and

WHEREAS, the Daniel Boone Parkway is a part of the Extended Weight Coal Haul Road System where large, overweight coal trucks are travelling at high rates of speed; and

WHEREAS, the Daniel Boone Parkway is also authorized for use by overdimensional vehicles, including vehicles 102 inches wide; and

WHEREAS, in 1996 only 6.38 miles of the Daniel Boone Parkway were repaved even though overweight and overdimensional vehicles travel the route daily; and

WHEREAS, according to a pavement management study completed by the Transportation Cabinet in 1996, between 1997 and 2003, only limited pavement improvements on the Daniel Boone Parkway are scheduled as follows: 8.8 miles in 1997, 12.01 miles in 1998, 2.58 miles in 1999, 17.08 miles in 2000, 0 miles in 2001, 0 miles in 2002, and 11.67 miles in 2003; and

WHEREAS, since 1981 the Transportation Cabinet has conducted pavement tests to determine the "rideability" of Kentucky's parkways; and

WHEREAS, in 1996 the average rideablity index for all parkways was 3.40, with the index fluctuating on the Daniel Boone Parkway from a low of 2.03 to a high of 3.72; and

WHEREAS, in 1996 the average daily traffic count for the outside lanes only of the Daniel Boone Parkway was 6,260 vehicles with some segments carrying as many as 10,100 vehicles daily; and

WHEREAS, improved road conditions would greatly accelerate economic development opportunities for communities along the Daniel Boone Parkway corridor; and

WHEREAS, many citizens along the Daniel Boone Parkway have expressed an interest in additional access ramps being constructed on the parkway near Buckhorn Lake and a new multi-county industrial park; and

WHEREAS, it is only prudent to take a broad overlook to consider area economic development needs, both immediate and long-range, when studying needed improvements to the Daniel Boone Parkway; and

WHEREAS, the combination of high accident rates, high traffic counts, limited scheduled pavement improvements, deteriorating pavement conditions, and economic development opportunities requires the state to review the need to redesign and reconstruct all or portions of the Daniel Boone Parkway;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is urged to conduct a scoping study to review the need to redesign and reconstruct all or parts of the Daniel Boone Parkway to address safety concerns, reduce motor vehicle accidents, and increase economic development opportunities for communities along the parkway.

Section 2. The Transportation Cabinet is urged to review traffic volumes, motor vehicle accident statistics, weights and dimensions of vehicles travelling on the Daniel Boone Parkway, as well as pavement conditions, bridge maintenance, and replacement needs, and drainage concerns.

Section 3. The Transportation Cabinet is urged to conduct public hearings and solicit input from all citizens and all elected officials in counties through which the Daniel Boone Parkway passes on the type of improvements needed on the Daniel Boone Parkway.

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to Secretary James Codell, Kentucky Transportation Cabinet, and to Governor Paul Patton.

SB 440, AN ACT relating to charter buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.013 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) (a) A "city bus certificate" means a certificate granting authority only for the operation of motor vehicles transporting passengers for hire between points within the corporate limits of a city and over regular routes;

(b) A "city bus" is a motor vehicle operated under one or more city bus certificates;

(c) The term "city bus license" means a license plate issued for a bus authorizing its operation under one or more city bus certificates or a combination of city bus certificates and suburban bus certificates;

(2) (a) A "suburban bus certificate" means a certificate granting authority only for the operation of motor vehicles carrying passengers for hire within the confines of either one or more cities and their suburban area, or a suburban area, over regular routes but not granting authority to engage in intracity transportation;

(b) A "suburban bus" is a motor vehicle operated under one or more suburban bus certificates;

(c) The term "suburban bus license" means a license plate issued for a bus authorizing its operation under one or more suburban bus certificates;

(3) (a) An "industrial bus certificate" means a certificate granting authority only for the operation of motor vehicles which are not exempt under subsection (11) of KRS 281.605 and which are used exclusively for transporting employees of a given industry or industries for hire to and from their place of employment;

(b) An "industrial bus" is a motor vehicle operated under an industrial bus certificate;

(c) The term "industrial bus license" means a license plate issued for a bus authorizing its operation under an industrial bus certificate.

(4) "Charter bus" means a passenger-carrying motor vehicle used to transport a group of persons who, carrying out a common purpose and under a single contract and at a fixed charge, have acquired the exclusive use of the vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the charter group after having left the place of origin.

Section 2. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection;

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or

(e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles to the extent such are used or operated in transportation programs pursuant to grants of funds in furtherance of and governed by the provisions of Title III and Title VII of the Federal Older Americans Act of 1965, Public Law 89-73, including all amendments thereto, and to the extent such are used or operated to transport persons whose fares are reimbursed or paid through programs in furtherance of and governed by the provisions of Title XIX and Title XX of the Federal Social Security Act, including all amendments thereto;

(5) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(6) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(7) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(8) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(9) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in KRS 211.950;

(10) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(11) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(12) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

(13) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section;[~~or~~]

(14) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet, Department of Highways pursuant to C.F.R. Title VI***; or***

(15) Passenger-carrying motor vehicles to the extent they are used as charter buses. However, the operator of a charter bus shall be prohibited from providing service to any person who is not a member of the group having entered into the contract for carriage, and pickup or delivery service shall not be allowed at any intermediate points.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

A charter bus company, as defined in subsection (4) of Section 1 of this Act, operating in the Commonwealth shall be required to meet federal standards of fitness and safety.

Section 4. The following KRS section is repealed:

281.637 Charter bus certificate.

The Committee on Judiciary reported **SB 53**, with Committee Substitute attached thereto, and **SB 199** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 53, AN ACT relating to limitations of civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- ***(a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.030, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;***
- ***(b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;***
- ***(c) "Child" means a person less than eighteen (18) years old;***
- ***(d) "Injury or illness" means either a physical or psychological injury or illness; and***
- ***(e) "Date of discovery" means the date that a person becomes aware that an act of childhood sexual assault or childhood sexual abuse was committed against him by an identified person or persons.***

(2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:

- ***(a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;***
- ***(b) Within five (5) years of the date of discovery by the victim of the act; or***
- ***(c) Within five (5) years after the victim attains the age of eighteen (18) years.***

(3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than five (5) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint and immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

- ***(a) The court rules upon the motion to seal;***
- ***(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or***
- ***(c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.***

Section 2. This Act shall apply to all actions which accrue before or after the date this Act becomes law. The General Assembly finds that retroactive effect is necessary to provide uniform justice to the victims of sexual offenses who were children when the offenses occurred.

The House Committee Substitute to **SB 53** is as follows:

AN ACT relating to limitations of civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- ***(a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.030, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood***

sexual assault;

- ***(b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;***
- ***(c) "Child" means a person less than eighteen (18) years old; and***
- ***(d) "Injury or illness" means either a physical or psychological injury or illness.***

(2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:

- ***(a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;***
- ***(b) Within five (5) years of the date the victim knew, or should have known, of the act; or***
- ***(c) Within five (5) years after the victim attains the age of eighteen (18) years.***

(3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than five (5) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

- ***(a) The court rules upon the motion to seal;***
- ***(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or***
- ***(c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.***

Section 2. This Act shall apply to all actions which accrue before or after the date this Act becomes law. The General Assembly finds that retroactive effect is necessary to provide uniform justice to the victims of sexual offenses who were children when the offenses occurred.

SB 199, AN ACT relating to telephone solicitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999, unless the context otherwise requires:

(1) "Telephone solicitation" means:

- (a) A telephone call ***or message sent by a facsimile machine*** to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:
  1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;
  2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;
  3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or
  4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or
- (b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant ***or telemarketer*** or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant ***or telemarketer*** represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
2. That the recipient will receive a prize or gift if the recipient calls the merchant ***or telemarketer***; or
3. That if the recipient buys one (1) or more items from the merchant ***or telemarketer***, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean ***the following***:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) ***A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;***

(d) A telephone call made by any of the following:

1. A college or university accredited by a national or regional accrediting organization;

2. An organization exempt from taxation under Section 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code;

3. A school, or a person on behalf of a school, regulated by the Kentucky Department of Education;

[~~a telephone call made by any of the following:~~]

4.[~~1.~~] A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;

5.[~~2.~~] A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;

6.[~~3.~~] An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;

7.[~~4.~~] An employment agency that has obtained a current permit from the Cabinet for Human Resources under the provisions of KRS Chapter 340;

8.[~~5.~~] A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;

9.[~~6.~~] A merchant ***or telemarketer*** or the merchant's ***or telemarketer's*** affiliate or authorized agent, when the merchant ***or telemarketer*** is regulated by the Public Service Commission;

10.[~~7.~~] A merchant ***or telemarketer*** soliciting the sale of food costing less than one hundred dollars ($100) to each address;

11.[~~8.~~] A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;

12.[~~9. The solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;~~

~~10.~~] Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;

13.[~~11. A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;~~

~~12.~~] A merchant ***or telemarketer*** or the merchant's ***or telemarketer's*** affiliate or authorized agent when the merchant ***or telemarketer*** is subject to the control or licensure regulations of the Federal Communications Commission;

14.[~~13.~~] A book, video, or record club or contractual plan or arrangement in which the ***merchant or telemarketer***[~~seller~~] provides the consumer with a form which the consumer may use to instruct the ***merchant or telemarketer***[~~seller~~] not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;

15.[~~14.~~] A merchant ***or telemarketer*** who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation;[~~ or~~]

16.[~~15.~~] Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;

17. A telephone call made by a merchant or telemarketer located in Kentucky to a location outside the Commonwealth of Kentucky;

18. [~~(d)A telephone call made by~~]A merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or

19. [~~(e)A telephone call made by~~]A merchant ***or telemarketer*** or the merchant's ***or telemarketer's*** affiliate or authorized agent, where the merchant ***or telemarketer*** is a publicly traded corporation;

Except for ***paragraph (d)16.***[~~subparagraph (2)(c)15.~~] of this ***subsection***[~~section~~], the exemptions provided under ***this*** subsection[~~ (2) of this section~~] shall apply only to a merchant ***or telemarketer*** or the merchant's ***or telemarketer's*** affiliate or authorized agent engaging in a telephone solicitation on the merchant's ***or telemarketer's*** behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) ***"Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes, but is not limited to, any such person that is an owner, operator, officer, director, or partner to the management activities of a business.***

(12) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 781) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation.

Section 2. KRS 367.46977 is amended to read as follows:

(1) If the merchant ***or telemarketer*** represents or implies that the consumer will receive a prize, award, or similar item of value from a number of such prizes or awards, all sales presentations shall include the actual number of individuals who have received the item having the greatest value, ***a description of the item, the market value of the item, the number of prizes to be awarded, the conditions to receive the item, the odds of winning, the statement that no purchase is necessary to win the prize or to participate in the promotion,*** and the actual number of individuals who have received the item with the least value within the preceding twelve (12) months or since the merchant ***or telemarketer*** has been in business if less than twelve (12) months.

(2) If the merchant ***or telemarketer*** is offering ***real estate,*** an investment, business, or employment opportunity, the sales presentation shall include the following:

(a) The number of consumers or investors who have participated to date;

(b) The actual experience of the consumers or investors as measured by the standards used in the sales presentations; and

(c) ***The price of the real estate or investment;***

(d) The location of the real estate or investment;

(e) Regarding an investment or business opportunity, the reasonable likelihood of success and a notice of the risk; and

(f) If the opportunity is so recent that no actual performance experience exists, that fact shall be disclosed in all sales presentations, and no other representation of performance shall be made in sales presentations.

(3) If the sales presentation includes representations of prices below those usually charged for items, the sales presentation shall include the name of the manufacturer, importer, or supplier of such items and the locations within the merchant' ***or telemarketer's*** calling state or this state at which the items are offered at usual prices. If the item has never been sold in the merchant's ***or telemarketer's*** calling state or this state no representation of usual selling price shall be made.

(4) If presenting information on merchandise or service, the total cost of the goods or services that are the subject of the call shall be given.

(5) If any restrictions, limitations, or conditions for the purchase or investment exist, these shall be disclosed during the telephone sales presentation.

(6) Terms for refunds, cancellation, exchange, or repurchase of the subject of the sales presentation shall be disclosed during the telephone sales presentation.

SECTION 3. A NEW SECTION OF KRS 367.46951 TO 367.46999 IS CREATED TO READ AS FOLLOWS:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any telemarketing company to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation.

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) Making or causing to be made an unsolicited telephone solicitation call if the number for that telephone appears in the current publication of the "no telephone solicitation calls" list maintained by the Office of the Attorney General, Division of Consumer Protection. Any holder of a telephone number may notify the division and be placed on a "no telephone solicitation calls" list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The names of persons requesting to be on the "no telephone solicitation calls" list shall remain on the list until the person rescinds his or her name from the list. The list shall be published quarterly in hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each month each telemarketing company shall be deemed to be on notice not to solicit any person whose name appears on the list. The division shall charge a fee calculated to defray costs of the no telephone solicitation calls program to telemarketing companies for the provision of the list. Funds collected shall be deposited into the division's trust and agency account. The list shall be made available to requesters either on a statewide or county by county basis; or

(16) Engaging in telemarketing to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location.

Section 4. KRS 367.46999 is amended to read as follows:

Any person, including, but not limited to, a merchant, ***a telemarketer,*** a salesperson, agent or representative of the merchant, or an independent contractor, who knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony*, except that any person who violates subsections (7) to (16) of Section 3 of this Act shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for any subsequent offense*. The Office of the Attorney General shall have concurrent enforcement powers as to such felonies ***and misdemeanors***.

Floor Amendments (Continued)

Floor Amendment No. 1 to the House Committee Substitute to **SB 265**, by Representative D. Butler:

On page 8, after line 5, by inserting:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class or an urban-county government:

(1) A certified teacher of the local board of education may report a student for investigation to the director of pupil personnel if an agreement has been entered into with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or a child suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the local board and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(2) The agreement shall establish procedures for:

  (a) Notifying the parent or guardian or other person exercising custodial control or supervision of the child and appropriate school officials;

  (b) Verifying the status of the child;

  (c) Releasing the child to a parent or guardian or other person exercising custodial control or supervision of the child;

  (d) Providing counseling and advice on school attendance; and

  (e) Allowing nonpublic schools to have, upon request, a method of certifying that a school age child is not subject to the provisions of this section.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 224**, by Representative Heleringer:

On page 6, after line 7, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

Other provisions of the Kentucky Revised Statutes notwithstanding, in order to promote economic development and tourism in a county containing a city that has, in whole or part, voted to discontinue prohibition, a limited sale precinct election may be held in any precinct containing an eighteen (18) hole regulation golf course. The election shall be conducted in the same manner as provided in KRS Chapter 242 for a regular local option election, except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages by the drink at (name of the golf course) in the (name of the precinct)?". Upon approval of the proposition, the Department of Alcoholic Beverage Control may issue a license to the golf course for the sale of alcoholic beverages by the drink as provided in KRS 243.030(8), (17), (18), and (23) and KRS 243.040(4)."

Floor Amendment No. 1 to the House Committee Substitute to **SB 303**, by Representative D. Butler:

On page 3, between lines 25 and 26, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class or an urban-county government:

(1) A classified employee of the local board of education may report a student for investigation to the director of pupil personnel if an agreement has been entered into with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or a child suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the local board and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(2) The agreement shall establish procedures for:

(a) Notifying the parent or guardian or other person exercising custodial control or supervision of the child and appropriate school officials;

(b) Verifying the status of the child;

(c) Releasing the child to a parent or guardian or other person exercising custodial control or supervision of the child;

(d) Providing counseling and advice on school attendance; and

(e) Allowing nonpublic schools to have, upon request, a method of certifying that a school age child is not subject to the provisions of this section."; and by renumbering the subsequent section accordingly.

Floor Amendment No. 2 to the House Committee Substitute to **SB 303**, by Representative Anderson:

On page 3, between lines 25 and 26 by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) When a majority of classified employees in a local school district or other political subdivision of the state with at least twenty (20) classified employees including any city of the first through fourth classes, county, charter county or urban-county government, an institution that is part of the postsecondary education system as defined in KRS 164.001, any other unit of government that is governed by elected officials, or a board that is appointed by a public employer and that has the authority to hire and dismiss employees without the permission of the public employer, vote to be represented by a collective bargaining agent, the employer shall comply. A classified employee does not include a supervisory, certified or professional, or management employee, or an elected official.

(2) An exclusive bargaining representative shall be chosen by the eligible employees to negotiate with the school district or other public employer's designated representatives in good faith at reasonable times and places on issues involving wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement with the intention of reaching an agreement, or to resolve questions arising under the agreement. If an employee participates in a strike, the employee shall not be paid for any day he or she participated in the strike and may be assessed a fine in an amount equal to the employee's daily compensation for each day that the employee is determined to have been on strike. If the employee encouraged other public employees to participate in the strike, the employee shall be terminated.

(3) A classified employee shall not strike or take any action in which the employee is absent from any portion of a work

assignment without permission or abstains wholly or in part from the full performance of duties without permission from the employer for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment without permission from the employer, including a work slowdown, sick-out, or the withholding of services on an intermittent basis.

(4) The obligation of a school district or other public employer to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require making a concession.

(5) A collective bargaining agreement does not impair the right and the responsibility of a school district or other public employer to:

- *(a) Determine policies such as the functions and programs of the employer, standards of service, budget, use of resources including but not limited to technology, and the organizational structure;*
- *(b) Direct, supervise, evaluate, or hire employees;*
- *(c) Maintain and improve the efficiency and effectiveness of operations;*
- *(d) Determine the overall methods, processes, means, or personnel needed to conduct its business;*
- *(e) Suspend, discipline, or discharge for just cause, or lay off, transfer, assign, schedule, promote, demote, or retain employees;*
- *(f) Determine the adequacy of the workforce;*
- *(g) Determine the overall mission and goals;*
- *(h) Effectively manage the workforce;*
- *(i) Take actions to carry out the mission of the agency;*
- *(j) Expend funds in compliance with its budget; and*
- *(k) Perform other acts relative to the agency's responsibilities as may be set forth in a collective bargaining agreement.*

(6) The school district or other public employer is not required to bargain on subjects reserved to the management and direction of the agency except those that affect wages, hours, and other terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, although a district or other public employer may enter into an agreement with an exclusive bargaining representative concerning other matters.

(7) A collective bargaining agreement shall be through a written contract, agreement, or memorandum of understanding, which the parties shall execute in order for it to be effective and which shall be the basis for a public employer to deduct dues and other fees upon written authorization by the employee and to remit those dues and fees on a monthly basis to the exclusive bargaining agent.

(8) A collective bargaining agreement shall contain a provision that provides for a grievance procedure that shall culminate with final and binding arbitration of unresolved grievances and disputed interpretations of agreements. A covered employee or exclusive bargaining representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement. A party to the agreement may bring suits for violation of an agreement in the Circuit Court of any county in which a party resides or transacts business.

(9) A local school district or other public employer shall not agree to a provision requiring that an employee become a member of a public employee organization as a condition for securing or retaining employment.

(10) No school district or other public employer shall interfere with, restrain, or coerce eligible employees from exercising their rights under this section.

(11) A public employee organization shall not threaten, coerce, induce, or encourage any individual to engage in a strike in violation of subsection (3) of this section. An organization that organizes or instigates a strike may be terminated as the official bargaining representative for the eligible employees by the school district or other public employer."; and by renumbering the subsequent section accordingly.

Floor Amendment No. 2 to **SB 227**, by Representative Damron:

On page 1, by deleting lines 1 through 13, in their entirety and inserting the following in lieu thereof:

"Section 1. In the event that House Bill 315 of this Regular Session passes the General Assembly including the language contained in subsection (4) of Section 28 of the Senate Committee Substitute to that Bill, found at page 63, lines 12 through 17, and the language contained in Senate Floor Amendment 25 (document number 983891) to that Bill, and the Governor signs House Bill 315 or it otherwise becomes a law, that section of the enrolled version of House Bill 315 corresponding to Section 28 of the Senate Committee Substitute to that Bill is amended to read as follows:

'(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

~~[(4) A managed care plan shall cover emergency room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.]~~'

Section 2. It is the intention of the General Assembly in enacting this Act to resolve the substantive conflict between the provisions referenced in Section 1 of this Act. If this Act becomes law, the Reviser of Statutes is authorized and directed to effectuate Section 1 of this Act notwithstanding KRS 446.250 and 7.990.

Section 3. Whereas House Bill 315 contains an emergency effective date provision and it is necessary to resolve a conflict relating to that Bill that will exist if that Bill becomes law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 3 Title to **SB 227**, by Representative Damron:

By amending the title to read as follows: AN ACT relating to health insurance and declaring an emergency.

Floor Amendment No. 3 to House Committee Substitute to **SB 303**, by Representative Gooch:

On page 3, between lines 25 and 26, by inserting:

"Section 2. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;~~[and]~~

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations."; and by renumbering the subsequent section accordingly.

Floor Amendment No. 1 to **SB 392**, by Representative Palumbo:

On page 10, line 19, by deleting "*four thousand dollars ($4,000)*" and inserting "*two thousand five hundred dollars ($2,500)*" in lieu thereof.

Floor Amendment No. 2 to **SB 247**, by Representative Barrows:

On page 1, by deleting lines 3 to 8, and by inserting in lieu thereof:

"*There is established in the State Treasury a permanent and perpetual fund to be known as the "Agricultural Diversification and Development Fund" to which shall be credited any increase in the cigarette excise tax subsequent to the effective date of this Act and in accordance with KRS 138.140; gifts; bequests; endowments; grants from the United States government, its agencies and instrumentalities; any funds from the tobacco settlement agreement or related federal legislation for tobacco farmers, tobacco dependent communities, and related matters, and funds received from any other sources, public or private. The moneys in the fund shall not be expended until appropriated by the General Assembly. The fund shall be administered by the Agricultural Diversification and Development Council created under Section 2 of this Act.*"; and

On page 3, line 5, after "*(12)*" by deleting the rest of the subsection, and by inserting in lieu thereof "*The council shall be activated when funds for the purposes of Sections 1 to 6 of this Act are appropriated by the General Assembly.*"

On page 3, after line 19, by deleting all language through page 4, line 14, and by inserting in lieu thereof:

"*(1) Ten percent (10%) to the owners of the tobacco basic quota based on the percentage of each owner's tobacco basic quota compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;*

(2) Ten percent (10%) to the individuals or entities growing tobacco based on the percentage of tobacco basic quota, being raised by the individual or entity, compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;

(3) Ten percent (10%) to the Department of Agriculture to be used for marketing, agricultural diversification, and development as provided in Section 6 of this Act;

(4) Ten percent (10%) to the Purchase of Agricultural Conservation Easement Corporation created in KRS 262.900 to 262.920;

(5) Ten percent (10%) to the University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture to carry out the duties and responsibilities as provided in Section 5 of this Act; and

(6) Fifty percent (50%) for grants or loans to owners of tobacco quotas, tobacco growers, tobacco-dependent communities, and other entities to be determined by the Agricultural Diversification and Development Council as provided in Section 4 of this Act."; and

On page 6, beginning on line 20, by deleting Section 7.

Calendar

SB 11, SB 168, SB 265, SB 303, and **SCR 126** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 440**, by Representative D. Butler:

On page 5, line 21, before the words "*A charter*", by inserting "*(1)*"; and

On page 5, between lines 22 and 23, by inserting the following:

"*(2) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a system of annual inspections for charter buses engaged in intrastate service in the Commonwealth. The department may establish an inspection fee, not to exceed one hundred dollars ($100) per bus, for operators of charter buses*

providing intrastate service. A charter bus which is engaged in intrastate service in the Commonwealth shall bear a sticker signifying that it has passed the annual inspection program established by the department.".

Floor Amendment No. 2 to **SB 95**, by Representative Coleman:

On page 1, after line 11, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court may grant reasonable visitation rights to any person who the court finds has played a substantial and continuing role in a child's life, if the court determines that to grant such rights would be in the best interests of the child. The court shall issue any necessary orders to enforce the decree. Any action under this subsection shall be brought in the Circuit Court in the county in which the child resides.

(2) The Circuit Court may, prior to granting visitation rights to any person who the court finds has played a substantial and continuing role in a child's life, order that the name of such person and of all persons residing in the home of that person be compared against the Law Information Network Kentucky (LINK) and the National Crime Information Center's (NCIC) computerized listing of data files including, but not limited to a criminal history file, domestic violence file, and sex offender file.".

Representative Stumbo moved that the rules be suspended to take all Senate Bills from the Committee on Rules and placed them in the Orders of the Day. Agreed. **SB 304, SB 343, SB 300, SB 145, SB 374, SB 226, SB 351, SB 357, SB 360, SB 11, SB 168, SB 265, SB 303** and **SCR 126** were posted or passage in the Orders of the Day.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 217**, by Representative Stein:

On pages 1 through 16, delete the sections contained within and insert in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Any physician's office or clinic that provides outpatient surgical procedures using general anesthesia shall be licensed as an ambulatory surgical center."

Floor Amendment No. 2 to House Committee Substitute to **SB 217**, by Representative Stein:

On pages 1 through 14, beginning after the enacting clause, delete the sections contained within in their entirety and insert in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Any physician's office or clinic that provides outpatient surgical procedures using general anesthesia shall be licensed as an ambulatory surgical center."

Floor Amendment No. 1 to **HR 144**, by Representative Riner:

On page 1, line 2, following "Leadership" to insert "Award"; and

On page 1, between lines 5 and 6, to insert the following:

"Section 3. The House of Representatives Outstanding Youth Leadership Award shall be presented to each young woman who earns the Gold Award presented by the Girl Scouts of the U.S.A."; and

On page 1, line 6, to delete "3." and to insert in lieu thereof "4."; and

On page 1, line 11, to delete "4." and to insert in lieu thereof "5."; and

On page 1, line 12, following "Scout" to insert "or earned the Gold Award".

Floor Amendment No. 3 to **SB 95**, by Representative Burch:

On page 1, after line 11, by inserting the following:

"Section 2. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, ***the commissioner of the Department for Juvenile Justice, the commissioner of the Department for Social Insurance,*** and the executive director of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; ~~[and]~~

(i) Develop services to meet the needs of children with an emotional disability***; and***

(j) Promote strategies to improve statewide and regional prevention services.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 1. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) representative of the Department of Juvenile Justice who works in the area served by the regional council chosen by the commissioner of the Department for Juvenile Justice;

(e) One (1) representative from a health department in the area served by the regional council chosen by the public health directors of the region;

(f) One (1) representative of the local Department for Social Insurance chosen by the regional field service manager in the area served by the regional council;

(g)[~~(d)~~] One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(h)[~~(e)~~] Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.".

Orders of the Day

Representative Stumbo moved that **HR 130** be posted for passage in the Orders of the Day. Agreed.

SB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **SB 202** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 26, 1998 roll call on **SB 202** - Appendix.) **SB 202** was passed and the title agreed to. Representative Stacy moved that the vote by which **SB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 120 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved that **SB 120** be passed.

On the roll call the vote was: Yeas 78, Nays 12 (See March 26, 1998 roll call on **SB 120** - Appendix.) **SB 120** was passed and the title agreed to. Representative Cave moved that the vote by which **SB 120** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 74** be passed.

On the roll call the vote was: Yeas 82, Nays 14 (See March 26, 1998 roll call on **SB 74** - Appendix.) **SB 74** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **SB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 123, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 123** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 26, 1998 roll call on **SB 123** - Appendix.) **SB 123** was passed and the title agreed to. Representative Gray moved that the vote by which **SB 123** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to House Committee Substitute to **SB 217**, by Representative Marzian:

On page 11, lines 2 through 18, delete the section in its entirety; and

To renumber the ensuing sections accordingly.

Floor Amendment No. 4 to House Committee Substitute to **SB 217**, by Representative Marzian:

On page 10, line 26, after the period, insert the following "***Any agreement made under this section shall be considered confidential and not subject to the open records law, KRS 61.870 to 61.884.***"

Floor Amendment No. 2 to **SB 392**, by Representative Gooch:

On page 11, after line 17 by adding the following:

"Section 20. KRS 226.080 is amended to read as follows:

Any pawnbroker, as defined in KRS 226.010, may, in loaning money on deposit of personal property, ***be subject to the same fees, default, and deferment charges as provided in KRS 288.530*** ~~[charge, contract for or receive interest at a rate not exceeding two percent (2%) per month on the unpaid principal balance of the loan, and may charge, contract for and receive a reasonable fee, not to exceed one fifth (1/5) of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers and for other expenses, losses and incidental costs associated with servicing such loans. It is further provided that such fee when made and collected shall not be deemed interest for any purpose of law]~~. No pawnbroker shall directly or indirectly charge, receive, or contract for any interest or consideration greater than that allowed by this section."

Floor Amendment No. 3 Title to **SB 392**, by Representative Gooch:

"By amending the title to read as follows: AN ACT relating to loans."

Floor Amendment No. 2 to **SB 395**, by Representative Stacy:

On page 9, between lines 18 and 19, by inserting the following:

"Section 5. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.990:

(1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" shall not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles.

(5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles.

(6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive

recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles ***for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation***.

(9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.

(10) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction.

(12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, that is self propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

(13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer.

(14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(15) "Commission" means the Motor Vehicle Commission.

(16) "Commissioner" means the commissioner of the department.

(17) "Department" means the Department of Vehicle Regulation.

(18) "Licensor" means the commission.

(19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.

(20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity.

(21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).

(23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(25) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise."; and

On page 9, line 19, by renumbering "Section 5" as "Section 6".

Orders of the Day (Continued)

SB 205 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 205** be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See March 26, 1998 roll call on **SB 205** - Appendix.) **SB 205** was passed and the title agreed to. Representative Long moved that the vote by which **SB 205** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 429, HB 61, HB 83, HB 253, HB 289, HB 419, HB 432, HB 526, HB 527, HB 528, HB 559, HB 562, HB 568, HB 572, HB 577, HB 588, HB 591, HB 593, HB 596, HB 603, HB 610, HB 639, HB 646, HB 696, HB 697, HB 732, HB 753, HB 771, HB 801, HB 853, HB 911**, and **HCR 125**. Message received on **HB 49**: The Senate has passed **HB 49** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 539**: The Senate has passed **HB 539** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 544**: The Senate has passed **HB 544** with Senate Committee Substitute and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 608**: The Senate has passed **HB 608** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 675**: The Senate has passed **HB 675** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 689**: The Senate has passed **HB 689** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 703**: The Senate has passed **HB 703** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 727**: The Senate has passed **HB 727** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 736**: The Senate has passed **HB 736** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HCR 14**: The Senate has passed **HCR 14** with Senate Committee Substitute and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (Time: 3:10 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 440**, by Representative D. Butler:

On page 5, line 21, before the word "***A***" insert the subsection number "***(1)***" and after the word "***bus***" delete the word "***company***"; and

On page 5, between lines 22 and 23, insert the following:

"***(2) All charter buses operating in the Commonwealth shall annually undergo a visual safety inspection at a Transportation Cabinet weigh station. The cabinet shall prepare stickers that a charter bus that successfully passes the visual safety inspection shall display in the lower right hand corner of the front window. The Transportation Cabinet shall promulgate administrative regulations to establish a fee not to exceed one hundred dollars ($100) to carry out the provisions of this subsection. A charter bus that fails to successfully pass the visual safety inspection shall not operate in the Commonwealth until the safety violations have been corrected.***".

Floor Amendment No. 8 to **SB 18**, by Representative Wilkey:

On page 4, after line 3, by inserting:

"Section 3. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and ***wastewater***[~~waste water~~] treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;[~~ and~~]

(d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government***; and***

(e) It is the intent of the General Assembly that the processing of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, consider the treatment of this sludge by composting as an industrial process. The provisions of this paragraph and subsection (3) of this section shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65 that processes its own water treatment or wastewater treatment sludge by composting on property owned or leased by the city, county, urban-county government, charter county government, or special district.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

(3) A permit application to establish, operate, or modify a composting site or composting facility for the processing of water treatment sludge or wastewater treatment sludge, shall require immediately the general public notice provided for in subsections (4) and (5) of KRS 224.40-310. If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process.".

Floor Amendment No. 1 to **SB 396**, by Representative Ford:

On page 1, lines 2 through 24 by deleting them in their entirety and by inserting in lieu thereof the following:

"(1) The jailer ***who operates a full service jail*** shall receive a monthly salary ***pursuant to any salary schedule in KRS Chapter 64 applicable to jailers operating a full service jail*** from the county jail operating budget.

(2) No jailer holding office in the Commonwealth on or after January 6, 1999, shall receive an annual salary of less than twenty thousand dollars ($20,000).

(3) The salaries of jailers who are not subject to any salary schedule in KRS Chapter 64 may be set at a higher level if the salary does not exceed the constitutional salary limit applicable to jailers. These jailers' salaries shall at least equal the prior year's level and may be adjusted by the fiscal court for the change in the prior year's consumer price index according to the provisions of Section 2 of this Act.

[~~(2) In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on July 1, 1982, shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000, whichever is greater. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527. In the event that a jail was closed during calendar year 1981, the secretary of finance may, upon proper documentation by the jailer, direct that a prior calendar year's level of compensation be used as a basis for setting the jailer's compensation pursuant to this section.~~

~~(3) The jailer's monthly salary for the period July, 1982, through December, 1982, shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982, divided by six (6).~~

~~(4) Except as provided in subsection (5) of this section, the jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.~~

~~(5) Effective January 6, 1986, the salary for jailers in any county where there is no jail and the jailer does not transport prisoners shall be twelve thousand dollars ($12,000) per year.~~]

Section 2. KRS 64.527 is amended to read as follows:

In order to equate the compensation of [~~county judges/executive, county clerks, sheriffs,~~] jailers ***who do not operate full service jails***, justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local

Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.".

Floor Amendment No. 3 to **SB 247**, by Representative Barrows:

On page 1, by deleting lines 3 to 8, and by inserting in lieu thereof:

"*There is established in the State Treasury a permanent and perpetual fund to be known as the "Agricultural Diversification and Development Fund" to which shall be credited any increase in the cigarette excise tax subsequent to the effective date of this Act and in accordance with KRS 138.140; gifts; bequests; endowments; grants from the United States government, its agencies and instrumentalities; any funds from the tobacco settlement agreement or related federal legislation for tobacco farmers, tobacco dependent communities, and related matters, and funds received from any other sources, public or private. The moneys in the fund shall not be expended until appropriated by the General Assembly. The fund shall be administered by the Agricultural Diversification and Development Council created under Section 2 of this Act.*"; and

On page 3, line 5, after "*(12)*" by deleting the rest of the subsection, and by inserting in lieu thereof "*The council shall be activated when funds for the purposes of Sections 1 to 6 of this Act are appropriated by the General Assembly.*"

On page 3, line 18, after "*distributed*" by deleting the rest of the line; and

On line 19, by deleting all language to the "*:*", and inserting in lieu thereof "*to*"; and

After line 19, by deleting all language through page 4, line 14, and by inserting in lieu thereof:

"*(1) The owners of the tobacco basic quota based on the percentage of each owner's tobacco basic quota compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;*

(2) The individuals or entities growing tobacco based on the percentage of tobacco basic quota, being raised by the individual or entity, compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;

(3) The Department of Agriculture to be used for marketing, agricultural diversification, and development as provided in Section 6 of this Act;

(4) The Purchase of Agricultural Conservation Easement Corporation created in KRS 262.900 to 262.920;

(5) The University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture to carry out the duties and responsibilities as provided in Section 5 of this Act; and

(6) Owners of tobacco quotas, tobacco growers, tobacco-dependent communities, and other entities to be determined by the Agricultural Diversification and Development Council as provided in Section 4 of this Act. These entities shall receive at least fifty percent (50%) of the funds in the form of grants or loans"; and

On page 6, beginning on line 20, by deleting Section 7.

Floor Amendment No. 4 to the House Committee Substitute to **SB 303**, by Representative Anderson:

On page 3, between lines 25 and 26 by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) When a majority of classified employees in a local school district vote to be represented by a collective bargaining agent, the employer shall comply. A classified employee does not include a supervisory, certified, or management employee. .

(2) An exclusive bargaining representative shall be chosen by the eligible employees to negotiate with the school district in good faith at reasonable times and places on issues involving wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement with the intention of reaching an agreement, or to resolve questions arising under the agreement. If an employee participates in a strike, the employee shall not be paid for any day he or she participated in the strike and may be assessed a fine in an amount equal to the employee's daily compensation for each day that the employee is determined to have been on strike. If the employee encouraged other employees to participate in the strike, the

employee shall be terminated.

(3) A classified employee shall not strike or take any action in which the employee is absent from any portion of a work assignment without permission or abstains wholly or in part from the full performance of duties without permission from the employer for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment without permission from the employer, including a work slowdown, sick-out, or the withholding of services on an intermittent basis.

(4) The obligation of a school district to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require making a concession.

(5) A collective bargaining agreement does not impair the right and the responsibility of a school district to:

- *(a) Determine policies such as the functions and programs of the employer, standards of service, budget, use of resources including but not limited to technology, and the organizational structure;*
- *(b) Direct, supervise, evaluate, or hire employees;*
- *(c) Maintain and improve the efficiency and effectiveness of operations;*
- *(d) Determine the overall methods, processes, means, or personnel needed to conduct its business;*
- *(e) Suspend, discipline, or discharge for just cause, or lay off, transfer, assign, schedule, promote, demote, or retain employees;*
- *(f) Determine the adequacy of the workforce;*
- *(g) Determine the overall mission and goals;*
- *(h) Effectively manage the workforce;*
- *(i) Take actions to carry out the mission of the agency;*
- *(j) Expend funds in compliance with its budget; and*
- *(k) Perform other acts relative to the agency's responsibilities as may be set forth in a collective bargaining agreement.*

(6) The school district is not required to bargain on subjects reserved to the management and direction of the agency except those that affect wages, hours, and other terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, although a district may enter into an agreement with an exclusive bargaining representative concerning other matters.

(7) A collective bargaining agreement shall be through a written contract, agreement, or memorandum of understanding, which the parties shall execute in order for it to be effective and which shall be the basis for a district to deduct dues and other fees upon written authorization by the employee and to remit those dues and fees on a monthly basis to the exclusive bargaining agent. An employee does not have to pay dues and be a part of the bargaining process.

(8) A collective bargaining agreement shall contain a provision that provides for a grievance procedure that shall culminate with final and binding arbitration of unresolved grievances and disputed interpretations of agreements. A covered employee or exclusive bargaining representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement. A party to the agreement may bring suits for violation of an agreement in the Circuit Court of any county in which a party resides or transacts business.

(9) A local school district shall not agree to a provision requiring that an employee become a member of a public employee organization as a condition for securing or retaining employment.

(10) No school district shall interfere with, restrain, or coerce eligible employees from exercising their rights under this section.

(11) A public employee organization shall not threaten, coerce, induce, or encourage any individual to engage in a strike in violation of subsection (3) of this section. An organization that organizes or instigates a strike may be terminated as the official bargaining representative for the eligible employees by the school district."; and by renumbering the subsequent section accordingly.

Orders of the Day (Continued)

SB 230 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 230** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 26 , 1998 roll call on **SB 230** - Appendix.) **SB 230** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 230** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 214, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the House Committee Substitute to **SB 214**. Agreed.

Representative Deskins moved that **SB 214**, by way of House Committee Substitute, be passed.

Representative Walton moved the adoption of Floor Amendment No. 20 to the House Committee Substitute to **SB 214**. On the roll call on Floor Amendment No. 20 to the House Committee Substitute to **SB 214** the vote was: Yeas 33, Nays 56 (See March 26, 1998, roll call on **SB 214** - Appendix.) Floor Amendment No. 20 to the House Committee Substitute to **SB 214** was rejected.

Representative Allen moved the adoption of Floor Amendment No. 10 to the House Committee Substitute to **SB 214**. Agreed.

Representative Stewart moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 214**. Agreed. Representative Stewart moved the adoption of Floor Amendment No. 3 to the House Committee Substitute to **SB 214**. Agreed. Representative Stewart moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 214**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 18 to the House Committee Substitute to **SB 214**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 19 to the House Committee Substitute to **SB 214**. On the roll call on Floor Amendment No. 19 to the House Committee Substitute to **SB 214** the vote was: Yeas 34, Nays 56 (See March 26, 1998, roll call on **SB 214** - Appendix.) Floor Amendment No. 19 to the House Committee Substitute to **SB 214** was rejected.

Representative Stacy moved the adoption of Floor Amendment No. 15 to the House Committee Substitute to **SB 214**. Agreed.

Representative Deskins moved that **SB 214**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 28 (See March 26, 1998 roll call on **SB 214** - Appendix.) **SB 214**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Deskins moved that the vote by which **SB 214**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 440**, by Representative Weaver:

On page 5, line 21, before the word "*A*" insert the subsection number "*(1)*" and after the word "*bus*" delete the word "*company*"; and

On page 5, between lines 22 and 23, insert the following:

"*(2) A charter bus, as defined in subsection (4) of Section 1 of this Act, operating in the Commonwealth shall be required to undergo an annual safety inspection conducted by the Kentucky Transportation Cabinet. The cabinet shall issue a window sticker for each charter bus that successfully passes the safety inspection. The sticker shall be dated and shall be placed in the lower right hand corner of the front window of the charter bus. The cabinet may charge a fee not to exceed one hundred dollars ($100) per bus for each safety inspection conducted. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish the fee authorized by this subsection. A charter bus that fails to successfully pass the safety inspection required by this subsection shall not operate within the Commonwealth until safety violations identified by the cabinet have been corrected.*

(3) Any person who operates a charter bus and who intentionally avoids having the charter bus undergo the safety inspection required by subsection (2) of this section shall be fined five hundred dollars ($500) for each bus that the person did not have inspected by the cabinet."

Floor Amendment No. 5 to House Committee Substitute to **SB 217**, by Representative Marzian:

On pages 1 through 14, beginning after the enacting clause, delete the sections contained within in their entirety and insert in lieu thereof:

"Section 1. The Legislative Research Commission shall direct the appropriate committee of the General Assembly to study abortion clinic regulation. In examining the issue the committee shall:

(1) Study in depth how best to provide women who utilize abortion clinics with the safest and most sanitary environment possible;

(2) Examine the different services that these abortion clinics offer, to determine if they should all be regulated in the same manner, or if tiering should be supplied;

(3) Examine the benefits of licensing these clinics and recommend the most effective method of licensing;

(4) Examine the current statutes and administrative regulations to determine if these clinics should be regulated under existing statutes and administrative regulations or whether new laws and regulations should be created;

(5) Examine the laws and regulations of the federal government and other states to determine how abortion clinics are regulated elsewhere;

(6) Examine the cost and the feasibility of having all abortion clinics in Kentucky regulated; and

(7) Make recommendations on the best way to regulate these clinics without placing an undue burden on the clinics.

Section 2. No later than August 31, 1999, the committee chosen by the Legislative Research Commission shall report its findings and recommendations to the Legislative Research Commission, including proposals for legislation.

Section 3. Staff services shall be provided by the staff to the Legislative Research Commission and are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."

Senate Message (Continued)

Announcing passage of **HB 813**. Message received on **HB 285**: The Senate has passed **HB 285** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 317**: The Senate has passed **HB 317** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 319**: The Senate has passed **HB 319** with Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 320**: The Senate has passed **HB 320** with Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 636**: The Senate has passed **HB 636** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 684**: The Senate has passed **HB 684** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 704**: The Senate has passed **HB 704** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 864**: The Senate has passed **HB 864** with Senate Committee Substitute and Senate Floor Amendment No. 5, Senate Floor Amendment No. 4, Senate Floor Amendment No. 7, and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (Time: 4:20 p.m.)

Orders of the Day (Continued)

SB 58, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 58** be passed.

Representative Burch moved the adoption of Floor Amendment No. 1 to **SB 58**. Representative Long inquired if Floor Amendment No. 1 was germane to **SB 58**. The Speaker ruled that Floor Amendment No. 1 was not germane to **SB 58**.

On the roll call on the passage of **SB 58** the vote was: Yeas 80, Nays 13 (See March 26 , 1998 roll call on **SB 58** - Appendix.) **SB 58** was passed and the title agreed to. Representative Marzian moved that the vote by which **SB 58** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 151 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 151** be passed.

On the roll call the vote was: Yeas 91, Nays 3 (See March 26, 1998 roll call on **SB 151** - Appendix.) **SB 151** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 151** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 380, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the House Committee Substitute to **SB 380**. Agreed.

Representative Wayne moved that **SB 380**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 11 (See March 26, 1998 roll call on **SB 380** - Appendix.) **SB 380**, by way of House Committee Substitute, was passed and the title agreed to. Representative Wayne moved that the vote by which **SB 380**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 337 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **SB 337** be passed.

On the roll call the vote was: Yeas 99, Nays 0 (See March 26, 1998 roll call on **SB 337** - Appendix.) **SB 337** was passed and the title agreed to. Representative Gooch moved that the vote by which **SB 337** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 339, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 3 to **SB 339**. Agreed.

Representative Adkins moved that **SB 339**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 1 (See March 26, 1998 roll call on **SB 339** - Appendix.) **SB 339**, as amended, was passed and the title agreed to. Representative Adkins moved that the vote by which **SB 339**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 87 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **SJR 87** be passed.

On the roll call the vote was: Yeas 96, Nays 1 (See March 26, 1998 roll call on **SJR 87** - Appendix.) **SJR 87** was passed and the title agreed to. Representative Colter moved that the vote by which **SJR 87** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 92, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the House Committee Substitute to **SB 92**. Agreed.

Representative Geveden moved that **SB 92**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 100, Nays 0 (See March 26, 1998 roll call on **SB 92** - Appendix.) **SB 92**, by way of House Committee Substitute, was passed and the title agreed to. Representative Geveden moved that the vote by which **SB 92**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 373, with House Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the House Committee Substitute to **SB 373**. Agreed. Representative Bowling moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 373**. Agreed.

Representative Bowling moved that **SB 373**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 7 (See March 26, 1998 roll call on **SB 373** - Appendix.) **SB 373**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Bowling moved that the vote by which **SB 373**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 376, with House Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the House Committee Substitute to **SB 376**. Agreed. Representative Vincent moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 376**. Agreed.

Representative Vincent moved that **SB 376**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See March 26, 1998 roll call on **SB 376** - Appendix.) **SB 376**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Vincent moved that the vote by which **SB 376**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 171**, by Representative Cave:

On page 1, line 17, to delete "***at the pre-***" and to insert in lieu thereof: "***within thirty (30) days after a verdict of a sentence of death has been returned and before final sentencing by the court.***"; and

On page 1, line 18, to delete, "***trial conference.***"; and

On page 1, line 21, to delete the same, and to insert in lieu thereof "***reduce the sentence to a term of imprisonment for life without benefit of probation or parole.***".

Orders of the Day (Continued)

SB 390 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 390** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 26, 1998 roll call on **SB 390** - Appendix.) **SB 390** was passed and the title agreed to. Representative Lindsay moved that the vote by which **SB 390** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 399, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **SB 399**. Agreed.

Representative Stacy moved that **SB 399**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 26, 1998 roll call on **SB 399** - Appendix.) **SB 399**, by way of Committee Substitute, was passed and the title agreed to. Representative Stacy moved that the vote by which **SB 399**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 438 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 438** be passed.

Representative Mason moved that **SB 438** be laid on the Clerk's Desk. On the roll call that **SB 438** be laid on the Clerk's Desk the vote was: Yeas 39, Nays 51 (See March 26, 1998, roll call on **SB 438**- Appendix.) The motion that **SB 438** be laid on the Clerk's Desk was rejected.

On the roll call on the passage of **SB 438** the vote was: Yeas 68, Nays 23 (See March 26, 1998 roll call on **SB 438** - Appendix.) **SB 438** was passed and the title agreed to. Representative Lindsay moved that the vote by which **SB 438** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 36, HB 39, HB 60, HB 61, HB 81, HB 83, HB 85, HB 206, HB 211, HB 165, HB 253, HB 267, HB 289, HB 312, HB 313, HB 314, HB 325, HB 338, HB 369, HB 414, HB 419, HB 430, HB 432, HB 444, HB 446, HB 449, HB 454, HB 469, HB 499, HB 503, HB 518, HB 526, HB 527, HB 528, HB 529, HB 547,**

HB 559, HB 562, HB 566, HB 568, HB 572, HB 577, HB 587, HB 588, HB 591, HB 592, HB 593, HB 596, HB 603, HB 610, HB 634, HB 638, HB 639, HB 640, HB 643, HB 646, HB 652, HB 658, HB 666, HB 680, HB 696, HB 697, HB 708, HB 714, HB 732, HB 742, HB 753, HB 757, HB 765, HB 769, HB 771, HB 780, HB 783, HB 789, HB 801, HB 813, HB 853, HB 911, HJR 95, HJR 121, HCR 125, and **HCR 126** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:50 p.m.)

Orders of the Day (Continued)

SB 228, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **SB 228**. Agreed.

Representative Burch moved that **SB 228**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 1 (See March 26, 1998 roll call on **SB 228** - Appendix.) **SB 228**, by way of Committee Substitute, was passed and the title agreed to. Representative Burch moved that the vote by which **SB 228**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HR 130** be adopted.

On the roll call the vote was: Yeas 92, Nays 2 (See March 26, 1998 roll call on **HR 130** - Appendix.) **HR 130** was adopted. Representative Burch moved that the vote by which **HR 130** was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 131 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **SCR 131** be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 26, 1998 roll call on **SCR 131** - Appendix.) **SCR 131** was adopted. Representative R. Adams moved that the vote by which **SCR 131** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 6 to the House Committee Substitute to **SB 26**, by Representative Burch:

On page 17, line 27, By deleting "***December 15, 1998***" and inserting in lieu thereof "***June 30, 2000***".

Orders of the Day (Continued)

SB 248, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Floor Amendment No. 1 to **SB 248**. Agreed. Representative Brown moved the adoption of Floor Amendment No. 2 to **SB 248**. Agreed. Representative Brown moved the adoption of Floor Amendment No. 3 to **SB 248**. Agreed.

Representative Brown moved that **SB 248**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 12 (See March 26, 1998 roll call on **SB 248** - Appendix.) **SB 248**, as amended, was passed and the title agreed to. Representative Brown moved that the vote by which **SB 248**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **SB 364** be posted for passage in the Orders of the Day. Agreed.

Representative Stumbo moved that the posting be waived on **SB 252, SB 332, SB 386,** and **SB 370**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 152, by Representatives Weaver, D. D. Butler, Siler, Ballard, Zimmerman, Sims, Turner, Wilkey, Miller, Anderson, Hoffman, Jordan, L. Clark, Horlander, Jenkins and Haydon: A RESOLUTION in recognition of the 223rd anniversary of the United States Army.

Motions, Petitions and Communications (Continued)

Representative Yonts moved the adoption of the following **Legislative Citation No. 215**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor of William Philip and Thelma Stone. The members of this honorable body welcome the opportunity to join Representative Brent Yonts in paying tribute to these outstanding Kentucky citizens, who by their unified years of service, have made lasting contributions to the good of the citizens of this Commonwealth. A native of Central City, Philip Stone is a man of great faith who has worn many extraordinary hats during his career, working as a miner, a Peace Officer, a member of the Kentucky State Police, a Deputy Sheriff, a Sheriff, and serving as Juvenile Court Judge, Muhlenberg County Judge and State Representative of the 15th District. He has served with distinction as a member of the Masons, the Kentucky Peace Officers Association, the Probate Judges Association of America, and as the Chairman of the Muhlenberg County Democratic Executive Committee and the Muhlenberg County Board of Health. Thelma Stone lent her hand and participated with inspiration and guidance, always supporting the fundamental sincerity of those who have devoted their lives to working for the public good. Philip and Thelma Stone are living a full and wonderful life, acting as an inspiration to us all. **Legislative Citation No. 215** was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 211**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bowen Elementary School as an exemplary educational institution dedicated to the academic success of its students. The students and teachers of this esteemed institution are commended for their quest for knowledge and understanding of the legislative process. The entire membership of this honorable body joins Representative Adrian Arnold in extending highest regards to these outstanding citizens and hereby welcomes them to today's session of the House of Representatives as they view their government in action. **Legislative Citation No. 211** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 2 to House Committee Substitute to **SB 351**, by Representative Burch:

On page 2, line 5, By deleting "***of***" and inserting in lieu thereof "***for***";

On page 2, line 8, By deleting "***costs***" and inserting in lieu thereof "***cost***";

On page 2, line 9, By deleting "***of***" and inserting in lieu thereof "***for***";

On page 3, line 5, By inserting "***this section and***" after "***duties of***" and by deleting "***3,***";

On page 4, line 17, By inserting "***(1)***" after "***one***";

On page 4, line 23, By inserting "***(1)***" after "***one***";

On page 7, line 7, By inserting after "***new or***" the word "***revised***" and

On page 8, line 19, By deleting "***establish***".

Motions, Petitions and Communications (Continued)

Representative Newsome moved the adoption of the following **Legislative Citation No. 210**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Jones Fork Elementary School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome in applauding the initiative of the students of Jones Fork Elementary School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General

Assembly. **Legislative Citation No. 210** was adopted without objection.

Representative Newsome moved the adoption of the following **Legislative Citation No. 212**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Beckham Combs Elementary School as an outstanding educational institution dedicated to the academic success of its students. Demonstrating a keen interest in the legislative process, these exemplary young scholars are commended for their efforts to broaden their understanding of democracy and government. The members of this honorable body are pleased to join with Representative Donnie Newsome in applauding the initiative of the students and teachers of Beckham Combs Elementary School and in extending our warmest welcome as they come to witness the proceedings of the Kentucky General Assembly. **Legislative Citation No. 212** was adopted without objection.

Representative Jordan moved the adoption of the following **HR 149**:

HR 149, A RESOLUTION adjourning the House of Representatives in honor of Florian and Eloise Meeks upon the occasion of their Golden Wedding Anniversary.

WHEREAS, it is appropriate for this august body to acknowledge the lifetime achievements of special citizens of the Commonwealth; and

WHEREAS, Florian Meeks, Jr., son of Florian and Martha Meeks, is a graduate of the Lincoln Institute in Simpsonville, Kentucky and Tuskegee Institute in Tuskegee, Alabama, and honorably served his country in the United States Military during World War II and the Korean War, and further dutifully served the citizens of this Commonwealth for seventeen years in various positions with the United States Postal Service in Louisville, Kentucky, and supported his family as an excellent husband, father, and spiritual leader; and

WHEREAS, Eloise Meeks, daughter of William and Alice Kline, was educated at Municipal College in Louisville, and as the consummate homemaker, trained, nurtured, and supported five children: Renelda Higgins Walker, Lieutenant Colonel Florian Meeks III, Honorable Alderman Reginald Kline Meeks, Michael Lamont Meeks, and Kenneth Wendell Meeks, each child having attended different high schools, colleges or universities, and professional schools; and

WHEREAS, Florian and Eloise Meeks entered into the bonds of holy matrimony fifty years ago at a ceremony administered by Reverend Jimmy Lee in Louisville, Kentucky; and

WHEREAS, Florian and Eloise Meeks have provided their children, the spouses of those children, and their grandchildren, their great-grandchildren, their grand-stepchildren, and their great grand-stepchildren with drive, determination, and a commitment to public service through their deeds and declarations throughout their lives and fifty years of marriage; and

WHEREAS, Florian and Eloise Meeks have provided their children, their relatives, their friends, their church, their community, and their fellow man with unselfish and unconditional love throughout their lives and fifty years of marriage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body proudly honors Florian and Eloise Meeks on the occasion of their Golden Wedding Anniversary.

Section 2. This venerable body acknowledges the Golden Wedding Anniversary celebration on Sunday, June 21, 1998, sponsored by the children of Florian and Eloise Meeks, and held at the Galt House Hotel in Louisville, Kentucky.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Florian, Jr. and Eloise Meeks upon the occasion of their Golden Wedding Anniversary.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Michael L. Meeks, Committee Staff Administrator, Personal Service Contract Review Subcommittee of the Legislative Research Commission for presentation to Florian, Jr. and Eloise Meeks upon the occasion of their Golden Wedding Anniversary weekend celebration.

There being no objection **HR 149** was adopted.

Representative Wilkey moved that the rules be suspended to withdraw Floor Amendment No. 7 to **SB 18**. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bruce moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Marzian moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marzian moved that her vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Pope moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Pope moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gray moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Riggs moved that he be recorded as voting "yea" on **SB 74**. Agreed.

Representative Miniard moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Miniard moved that his vote be changed from "yea" to "nay" on **SB 74**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crimm moved that he be recorded as voting "yea" on **SB 228**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **SB 58**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that he be recorded as voting "yea" on **SB 151**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Collins moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Baugh moved that he be recorded as voting "yea" on **SB 58, SB 151,** and **SB 380**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **SB 74**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that he be recorded as voting "yea" on **SB 230**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 299, HB 301, HB 304**, Representative Crenshaw; **HB 900**, Representative Miller.

Announcements

The following meeting was announced:

Appropriations and Revenue, upon adjournment, Room 129 or Room 131

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 27, 1998.

On the roll call the vote was **Yeas 79**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, L. Clark, J. Clarke, Coleman, Colter, Crenshaw, Crimm, Damron, DeWeese, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Lovell, Marzian, Mason, Miller, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 7**--Cave, Collins, Crall, Hoover, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

FRIDAY, MARCH 27, 1998

FIFTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Wanda McEntyre, King's Solomon Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 26, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report on Enrolled Bills

HB 36, HB 39, HB 60, HB 61, HB 81, HB 83, HB 85, HB 206, HB 211, HB 165, HB 253, HB 267, HB 289, HB 312, HB 313, HB 314, HB 325, HB 338, HB 369, HB 414, HB 419, HB 430, HB 432, HB 444, HB 446, HB 449, HB 454, HB 469, HB 499, HB 503, HB 518, HB 526, HB 527, HB 528, HB 529, HB 547, HB 559, HB 562, HB 566, HB 568, HB 572, HB 577, HB 587, HB 588, HB 591, HB 592, HB 593, HB 596, HB 603, HB 610, HB 634, HB 638, HB 639, HB 640, HB 643, HB 646, HB 652, HB 658, HB 666, HB 680, HB 696, HB 697, HB 708, HB 714, HB 732, HB 742, HB 753, HB 757, HB 765, HB 769, HB 771, HB 780, HB 783, HB 789, HB 801, HB 813, HB 853, HB 911, HJR 95, HJR 121, HCR 125, and **HCR 126** delivered to the Senate and signed by the President. Delivered to the Governor on March 27, 1998 at 9:36 a.m.

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Hoffman moved the adoption of the following **Legislative Citation No. 226**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Scott County High School Boys Varsity Basketball Team upon winning its first KHSAA Boys State Tournament Championship. The first Eighth Region team to win the state title since 1978, this extraordinary team has put forth tremendous dedication and hard work throughout the season, culminating in this stellar achievement. The talent and ambition of these exceptional young athletes of the Commonwealth is both laudable and worthy of note. The members of the Kentucky House of Representatives are delighted to join with Representative Charlie Hoffman in applauding the accomplishments of the Scott County High School Boys Varsity Basketball Team and in extending to them best wishes for continued athletic victories. **Legislative Citation No. 226** was adopted without objection.

Senate Message

Announcing passage of **HB 3, HB 13, HB 279, HB 659, HB 776,** and **HJR 89**. Message received on **HB 121**: The Senate has passed **HB 121** with Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 321**: The Senate has passed **HB 321** with Senate Committee Substitute, Senate Floor Amendment No. 9, Senate Floor Amendment No. 13, Senate Floor Amendment No. 1, Senate Floor Amendment No. 5, Senate Floor Amendment No. 7, Senate Floor Amendment No. 8, Senate Floor Amendment No. 10, Senate Floor Amendment No. 14, and Senate Floor Amendment No. 17 and respectfully requests concurrence of this Honorable Body. Message received on **HB 330**: The Senate has passed **HB 330** with Senate Committee Substitute, Senate Committee Amendment No. 2, Senate Floor Amendment No. 8, and Senate Floor Amendment No. 4 and respectfully requests concurrence of this Honorable Body. Message received on **HB 455**: The Senate has passed **HB 455** with Senate Committee Substitute, Senate Floor Amendment No. 2, Senate Floor Amendment No. 6, Senate Floor Amendment No. 10, Senate Floor Amendment No. 15, Senate Floor Amendment No. 23, Senate Floor Amendment No. 21, Senate Floor Amendment No. 4, and Senate Floor Amendment No. 18 and respectfully requests concurrence of this Honorable Body. Message received on **HB 468** : The Senate has passed **HB 468** with Senate Floor Amendment No. 2 and Senate Floor Amendment No. 5 and respectfully requests concurrence of this Honorable Body. Message received on **HB 629**: The Senate has passed **HB 629** with Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 670**: The Senate has passed **HB 670** with Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 786**: The Senate has passed **HB 786** with Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 854**: The Senate has passed **HB 854** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 10:05 a.m.)

Introduction of Resolutions

HR 153, by Representatives Gray, Nesler, Geveden, and Rasche: A RESOLUTION adjourning the House of Representatives in honor of W. B. "Bill" Sanders upon the occasion of his 90th birthday.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Cities: **SB 344, SB 368**

Education: **SCR 125**

Judiciary: **SB 386, SB 387**

Labor and Industry: **SB 319**

State Government: **SB 429**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 152**

Floor Amendments

Floor Amendment No. 15 to **SB 121**, by Representative Johns:

On page 2, line 10, following "***abortion***", to insert "***unless the fetus has been diagnosed by two (2) or more obstetricians or gynecologists as being anencephalic***"; and

On page 2, after line 7 and before line 8, by inserting the following:

"***(12) "Anencephalic" means possessing a congenital defective development of the brain, with absence of the bones of the cranial vault and absent or rudimentary cerebral or cerebellar hemispheres, brainstem, and basal ganglia.***".

Report of Committees

The Committee on Appropriations and Revenue reported **SB 171, SB 252,** with Committee Substitute attached thereto, and **SB 332** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **SB 370** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 370, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.472 is amended to read as follows:

(1) "Prescription medicine" ***means***[~~shall mean and include~~]:

(a) Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use which is prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; and

(b) Medical oxygen when purchased by the patient for private use.

(2) "Prosthetic devices and physical aids" for the purpose of this section ***means***[~~shall mean and include~~] artificial devices prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics.

(3) ***"Infusion supplies" means supplies necessary for the delivery of infused medications in a noninstitutional setting and shall be limited to medication bags, cassettes, syringes, tubing, filters, administrations, connecting devices,***

swabbing, flushing, prepackaged dressing kits, prepackaged IV kits, intravenous and subcutaneous access catheters.

(4) The terms "sale at retail," "retail sale," "use," "storage" and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of prescription medicine, prosthetic devices and physical aids*, and infusion supplies*.

Section 2. The amendment contained in Section 1 of this Act shall apply to sales made after July 31, 1998.

Calendar

SB 396, HR 144, SB 159, SB 197, SB 263, HR 136, SB 440, SB 53, and **SB 199** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 229**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes and applauds the Frankfort Rotary Club and Rotary International as they join to witness a day of Regular Session of the 1998 Kentucky General Assembly. Further, this extraordinary organization is afforded the deepest gratitude for their immense and valuable work to develop and support the Polioplus Program, a humanitarian effort which, in cooperation with the United Nations World Health Organization and the United Nation's Children's Fund, seeks to eliminate the terrible disease, polio. The success of this program is demonstrated by the fact that 155 countries world-wide reported zero polio cases in 1996. The members of this august body are pleased to join with Representative Gippy Graham in applauding the extraordinary work of the Rotary Club and in extending to them sincere welcome to the Chambers of the Kentucky House of Representatives. **Legislative Citation No. 229** was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 58, SB 74, SB 120, SB 123, SB 151, SB 202, SB 205, SB 230, SB 337, SB 390, SB 438, SJR 87, SCR 131** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:30 a.m.)

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 168**, by Representative D. Butler:

On page 5, after line 2, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class or an urban-county government:

(1) An employee of the local board of education may report a student for investigation to the director of pupil personnel if an agreement has been entered into with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or a child suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the local board and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(2) The agreement shall establish procedures for:

(a) Notifying the parent or guardian or other person exercising custodial control or supervision of the child, and appropriate school officials;

(b) Verifying the status of the child;

(c) Releasing the child to a parent or guardian or other person exercising custodial control or supervision of the child;

(d) Providing counseling and advice on school attendance; and

(e) Allowing nonpublic schools to have, upon request, a method of certifying that a school age child is not subject to the provisions of this section.".

Floor Amendment No. 2 to House Committee Substitute to **SB 265**, by Representative Murgatroyd:

On page 8, after line 5 by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

All persons employed as teachers for gifted education shall hold an appropriate certificate endorsement for gifted education, except that all teachers having certificates initially issued for a duration period on or before July 1, 1984, or proper renewals thereof, shall remain eligible thereafter for assignment as teachers for gifted education, for the grade levels of the base certificate, provided any such assignment was valid under the original certificate at the time it was issued.".

Floor Amendment No. 1 to **SB 364**, by Representative Stumbo:

On page 12, lines 9 and 10, by deleting the new language in its entirety, and inserting in lieu thereof "***, provided that the management may include any existing or proposed engineering or institutional controls and the maintenance of those controls***"; and

On page 13, line 24, by deleting the brackets and strikethroughs; and

On page 13, lines 25 to 27, by deleting the new language in its entirety.

Floor Amendment No. 3 to **SB 171**, by Representative Treesh:

On page 1, lines 1 through 24, to delete the same and to insert in lieu thereof:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be put to death under color of state law in the execution of a sentence that was either sought or imposed based on race.

(2) In any hearing held before a jury pursuant to KRS 532.025, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or the victim may be. The jury shall return to the court a certificate signed by each juror and attesting that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or the victim may be.

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

In a criminal trial:

(1) On motion of the defense or the Commonwealth, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that racial prejudice or bias will affect the jury either against or in favor of the defendant.

(2) On motion of the defense or the Commonwealth, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias.

(3) Neither the Commonwealth nor the defense shall make any appeal to racial prejudice or bias in statements before the jury."; and

On page 1, line 25, to delete "2." and to insert in lieu thereof "3."; and

On page 2, line 4, to delete "3." and to insert in lieu thereof "4."; and

On page 2, line 6, to delete "3." and to insert in lieu thereof "4.".

Representative Stumbo moved that **HR 136**, **HR 144**, **SB 53**, **SB 159**, **SB 197**, **SB 199**, **SB 263**, **SB 396**, **SB 440**, **SB 171**, **SB 252** and **SB 332** be taken from the Committee on Rules and placed in the Orders of the Day for March 30, 1998. Agreed.

Orders of the Day

SB 146, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 146** be passed.

Representative Riner moved the adoption of Floor Amendment No. 4 to **SB 146**. Representative Long inquired if Floor Amendment No. 4 was germane to **SB 146**. The Speaker ruled that Floor Amendment No. 4 was not germane to **SB 146**.

Representative Riner moved the adoption of Floor Amendment No. 3 to **SB 146**. Representative Treesh inquired if Floor Amendment No. 3 to **SB 146** was a piggyback. The Speaker ruled that Floor Amendment No. 3 to **SB 146** was a piggyback. Representative Riner moved that the rules be suspended to allow that Floor Amendment No. 3 to **SB 146** be considered. On the roll call to consider Floor Amendment No. 3 to **SB 146** the vote was: Yeas 33, Nays 49 (See March 27, 1998, roll call on **SB 146** - Appendix.) The motion that Floor Amendment No. 3 to **SB 146** be considered was rejected.

Representative Wilkey moved that **SB 146** be passed.

On the roll call the vote was: Yeas 77, Nays 12 (See March 27, 1998 roll call on **SB 146** - Appendix. **SB 146** was passed and the title agreed to. Representative Wilkey moved that the vote by which **SB 146** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 392**, by Representative Yonts:

On page 7, by deleting lines 18 and 19 and inserting in lieu thereof:

"***(1) (a) A title pledge lender shall contract for and receive an effective rate of interest not to exceed two percent (2%) per month;***

(b) The title pledge lender may also charge, contract for, and receive a fee to defray the ordinary costs of operating a title pledge office, including, but not limited to:

1. Investigating the title;

2. Appraising the titled personal property;

3. Documenting and closing the title or property pledge transaction;

4. Making required reports to local law enforcement officials;

5. Providing other services;

6. Advertising;

7. Sustaining losses on title pledge transactions;

8. Paying salaries; and

9. All other expenses incurred by the title pledge lender, except those set forth in subsection (2) of this section.

(c) A fee shall not be deemed interest for any purpose of law, and the fee may equal no more than one-fifth (1/5) of the original principal amount of the title pledge agreement, or of the total unpaid principal balance due at the inception of any renewal of the agreement. The interest and fees shall be deemed to be earned, due, and owing as of the date of the title pledge agreement and an equal sum shall be deemed earned, due, and owing on the same day of each subsequent thirty (30) days period until all principal, interest, and fees have been fully paid.

(2) Title pledge lenders may assess and collect, as reimbursement, a repossession and storage charge not to exceed the actual amount charged by any company, attorney, or contractor to repossess the titled personal property and deliver the titled personal property and deliver the titled personal property to the storage facility of the title pledge lender."; and

On page 7, line 20, by deleting "***(2)***" and inserting "***(3)***"; and

On page 7, line 27, by deleting "***(3)***" and inserting "***(4)***".

Floor Amendment No. 1 to **SB 199**, by Representative Bowling:

On page 5, lines 12 and 13, to delete the same; and

On page 5, line 14, to delete "***18.***" and to insert in lieu thereof "***17.***"; and

On page 5, line 21, to delete "***19.***" and to insert in lieu thereof "***18.***".

Floor Amendment No. 21 to **SB 177**, by Representative Cave:

On page 1, between lines 14 and 15, to insert the following:

"***The evidence presented shall be limited to statistical evidence relating solely to the county in which the crime was alleged to be committed or, in the case of a change of venue, upon the request of the prosecution or defense, shall be limited solely to evidence from the county in which the trial is being held***".

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 3, HB 13, HB 279, HB 659, HB 776,** and **HJR 89** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:33 a.m.) **HB 3, HB 13, HB 279, HB 659, HB 776,** and **HJR 89** delivered to the Senate and signed by the President. Delivered to the Governor on March 27, 1998 at 12:09 p.m.

Senate Message (Continued)

Announcing passage of **HB 618** and **HB 724**. Message received on **HB 226**: The Senate has refused to recede from Senate Floor Amendment 1 to **HB 226** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Seum, Chair, Boswell and Borders. Message received on **HB 65**: The Senate has passed **HB 65** with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 4 and respectfully requests concurrence of this Honorable Body. Message received on **HB 532**: The Senate has passed **HB 532** with Senate Committee Amendment No. 1, Senate Floor Amendment No. 4, Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 554**: The Senate has passed **HB 554** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 612**: The Senate has passed **HB 612** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 655**: The Senate has passed **HB 655** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 11:40 p.m.)

Orders of the Day (Continued)

SJR 118 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SJR 118** be adopted.

On the roll call the vote was: Yeas 92, Nays 0 (See March 27, 1998 roll call on **SJR 118** - Appendix.) **SJR 118** was adopted. Representative Deskins moved that the vote by which **SJR 118** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 307 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 307** be passed.

On the roll call the vote was: Yeas 79, Nays 13 (See March 27, 1998 roll call on **SB 307** - Appendix.) **SB 307** was passed and the title agreed to. Representative Wilkey moved that the vote by which **SB 307** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 311 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 311** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 27, 1998 roll call on **SB 311** - Appendix.) **SB 311** was passed and the title agreed to. Representative Deskins moved that the vote by which **SB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 313 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 313** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 27, 1998 roll call on **SB 313** - Appendix.) **SB 313** was passed and the title agreed to. Representative Deskins moved that the vote by which **SB 313** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 318 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 318** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 27 , 1998 roll call on **SB 318** - Appendix.) **SB 318** was passed and the title agreed to. Representative Deskins moved that the vote by which **SB 318** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the posting be waived on **SB 186, SB 387,** and **SB 319**. Agreed.

Representative Stumbo moved that **SB 368** be reassigned to Labor and Industry. Agreed.

Representative Stumbo moved that **SB 332** be reassigned to Appropriations and Revenue. Agreed.

Representative Stumbo moved that **SB 26** be reassigned to State Government. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to House Committee Substitute to **SB 226**, by Representative R. Adams:

On page 3, after line 5, insert the following:

"Section 5. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system after July 1, 1914, or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls;[~~ and~~]

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit*; and*

(d) "Public use road" means any road that has been open to use by the general public as a matter of right without restriction for at least fifteen (15) years and has not been formally dedicated and accepted as a county road under the provisions of this chapter.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of *the*[~~such~~] city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.220 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city, provided that the city agrees to pay the costs if any associated with any such agreement.

SECTION 6. A NEW SECTION OF KRS CHAPTER 178 IS CREATED TO READ AS FOLLOWS:

A property owner whose land adjoins a public use road shall not be denied access by another property owner with land adjoining the public use road. Any property owner denied access may enforce right of access by filing a private action with the District Court having jurisdiction over the public use road and requesting the court to grant access through a summary proceeding establishing the road is a public use road. For safety purposes, the county road engineer shall periodically inspect public use roads. If trees or other obstacles are found that may endanger the general public using the road, he shall contact, in writing, the adjacent property owner to request resolution of the problem. If the adjoining property owner is unwilling or unable to resolve the safety problem, then the fiscal court of the county in which the road is located shall take appropriate action.

Section 7. KRS 178.025 is amended to read as follows:

(1) ***Except for public use roads,*** any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions by the general public for five (5) consecutive years, shall conclusively be presumed to be a public road.

(2) In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks ***including***[~~such as~~] fences, fence posts, corner stones or other similar monuments indicating the boundary line.

(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to ***the***[~~said~~] road, and to the top of ***any*** cuts or toe of fills[~~, where such exist~~]."; and

On page 3, on line 6, renumber "Section 5" to "Section 8".

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 154, by Representative Long: A RESOLUTION adjourning the House of Representatives in honor of the Legislative Research Commission Director, Don Cetrulo, and the entire legislative staff for their outstanding work in assuring the smooth operation of the 1998 General Assembly.

HR 155, by Representative Richards: A RESOLUTION honoring the staff and leadership of the Legislative Research Commission's Office for Computing and Information Technology.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the posting be withdrawn on the following bill for Committee consideration:

Judiciary: **SB 386**

Motions, Petitions and Communications (Continued)

Representative Yonts moved the adoption of the following **Legislative Citation No. 228**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day honoring Charles "Preacher" and Gilda Nelson for the essential dignity these two public spirited citizens have demonstrated by their genuine concern for the citizens of Kentucky. Charles "Preacher" Nelson is a man well-acquainted with hard work and challenging times. Born in Bremen, Kentucky, "Preacher" worked in the coal mines, served as the Muhlenberg County Coroner for many year, and then rolled up his sleeves and worked hard in the legislature, serving on the Labor and Industry Committee and as Vice Chair of both the Natural Resources and Environment Committee, and the Tourism Development and Energy Committee. He is a member of the Bremen Lions Club, UMWA, VFW, American Legion, Bremen Fire Department, Bremen CB Club, Kentucky Peace Officers Association, Ducks Unlimited, NRA, and past member of the Board of Directors of the Kentucky Coroner's Association. The members of this honorable body are pleased to join Representative Brent Yonts in once again paying tribute to Charles "Preacher" Nelson for the many contributions he made while serving as a State Representative and to Gilda Nelson for her steadfast support of their shared sense of commitment to working for the public good. **Legislative Citation No. 228** was adopted without objection.

Representative Mason moved the adoption of the following **Legislative Citation No. 224**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Whitesburg Middle School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts in this venture. The members of the Kentucky House of Representatives are pleased to join with Representative Paul Mason in applauding the initiative of the students of Whitesburg Middle School and in extending a welcoming hand to them as they join to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 224** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 227**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy to the family and friends of Dorsey Cook devoted husband of Zula Cook, who preceded him in death; beloved father of Joanne Bain; adored brother of Iva Lee Robinson; doting grandfather of John Mark Bain, and cherished great-grandfather of Coty Bain. A faithful member of Mt. Moriah Baptist Church, this distinguished gentleman of the Commonwealth was a farmer and construction worker in Mt. Eden, Kentucky. Dorsey Cook will long be remembered by fellow church members as a devoted man of faith; by his colleagues, as a worthy peer; and, by his family, as a loving father, grandfather, and great-grandfather. The members of this august body are honored to join with Representative Marshall Long in paying tribute to the memory of this beloved son of the Commonwealth and in hereby adjourning this legislative day in reverence of the life of this extraordinary man. **Legislative Citation No. 227** was adopted without objection.

Representative Gray moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 153**:

HR 153, AN ACT relating to curfew violations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations,

and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for Human Resources;

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under

Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders[~~. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages~~];

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 630.020 is amended to read as follows:

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

(1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;

(2) Has not subjected himself to the reasonable control of his parent or guardian or school personnel or person exercising custodial control or supervision of the child;[~~ or~~]

(3) Has been an habitual truant from school***; or***

(4) Has violated a local curfew ordinance.

Section 3. KRS 630.030 is amended to read as follows:

Under the provisions of this chapter a child may be taken into custody by any peace officer:

(1) Pursuant to an order of the court for failure to appear before the court for a previous status offense;[~~ or~~]

(2) If there are reasonable grounds to believe that the child has been an habitual runaway from his parent or person exercising custodial control or supervision of the child***; or***

(3) If there are reasonable grounds to believe that the child is in violation of a curfew ordinance enacted by the local government in which jurisdiction the child is located at the time he or she was taken into custody by the peace officer.

There being no objection **HR 153** was adopted.

Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 219**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Heather Bellew, National Finalist 1998 Elks National "Hoop Shoot". Whereas, over 3.5 million nationwide participants competed in this year's Free-Throw Contest; and whereas, Heather Bellew has progressively advanced against local, district, and state competitors, ultimately winning the State finals in Frankfort, Kentucky; and whereas, this remarkable young citizen triumphed over all competitors to win the four-state Regional Finals; and whereas, she is one of only seventy-two individuals to qualify for the National Finals held in Springfield, Massachusetts; therefore, this prestigious body joins Representative Richard Murgatroyd in honoring this talented athlete, representing Frankfort Elks #530, for her stellar performance in the 8-9 year-old Girls Division, and in wishing her the best of luck at the National finals and in all future endeavors. **Legislative Citation No. 219** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 221**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the Franklin County High School 9th Grade Civics Class upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join with Representative Gippy Graham in welcoming the students of Ms. Sonya Gardner's 9th grade civics class to the Chambers of the Kentucky House of Representatives and in extending to them best wishes for the future. **Legislative Citation No. 221** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 218**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Jessica Pettus, National Finalist 1998 Elks National "Hoop Shoot". Whereas, over 3.5 million nationwide participants competed in this year's Free-Throw

Contest; and whereas, Jessica Pettus has progressively advanced against local, district, and state competitors, ultimately winning the State finals in Frankfort, Kentucky; and whereas, this remarkable young lady triumphed over all competitors to win the four-state Regional Finals; and whereas, she is one of only seventy-two individuals to qualify for the National Finals in Springfield, Massachusetts; therefore, this prestigious body joins Representative Gippy Graham in honoring this talented athlete, representing Frankfort Elks #530, for her stellar performance in the 12-13 year-old girls division, and in wishing her the best of luck at the National finals and in all future endeavors. **Legislative Citation No. 218** was adopted without objection.

Representative Lovell moved the adoption of the following **Legislative Citation No. 222**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bourbon County High School as an exemplary educational institution dedicated to the academic success of its students. The students and teachers of Bourbon County High School are commended for their enthusiastic pursuit of knowledge and understanding of the legislative process. The members of this distinguished body are indeed pleased to join Representative Jim Lovell in extending highest regards to these outstanding young citizens and in welcoming them to the Chambers of the Kentucky House of Representatives. **Legislative Citation No. 222** was adopted without objection.

Representative Stumbo moved that the posting be waived on **SB 368**. Agreed.

Representative Stumbo moved that the House refuse to concur in Senate Amendments to **HB 321**. Agreed. Representative Stumbo moved that the Speaker appoint a Conference Committee to meet on March 30, 1998, 9:00 a.m., Room 327. Agreed. The Speaker appointed the following members to a Conference Committee on **HB 321**: Representative Moberly, Chair; Representatives Allen, Richards, Cave, L. Clark, Barrows, Callahan, Ford, and Stumbo.

Representative Stumbo moved that when the House does adjourn this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 4:00 p.m., March 30, 1998. Agreed. Representative Stumbo moved that no further business be conducted on this day other than usual in Motions, Petitions and Communications. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 230**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor of Glenn Jones upon the auspicious occasion of his Fiftieth Birthday. Owner and operator of Little Sandy Tours in Lexington, Kentucky, this distinguished Kentucky citizen is also applauded for the valued service he has rendered the youth of his community through his participation in the Dixie Basketball Program. For twenty-six dedicated years, Glenn Jones has served the program in many capacities, fostering an appreciation of the finer points of basketball in the budding young athletes of his community. The members of this distinguished body are pleased to join with Representative Ruth Ann Palumbo in extending most heartfelt birthday greetings to Glenn Jones and in hereby adjourning this legislative day in his honor. **Legislative Citation No. 230** was adopted without objection.

Representative Anderson moved that the rules be suspended to withdraw Floor Amendment No. 2 and Floor Amendment No. 4 to **SB 303**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **SB 311, SB 313, SB 307, SB 318, SB 146, SJR 118,** and **SB 276**. Agreed.

Representative Stine moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stine moved that her vote be changed from "nay" to "yea" on **SB 339**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Adams moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **SB 307**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "yea" on **SB 146**. Agreed.

Representative Jenkins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jenkins moved that her vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Burch moved that he be recorded as voting "nay" on **HB 258**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crall moved that he be recorded as voting "nay" on **HB 810**. Agreed. Representative Crall moved that his vote be changed from "nay" to "yea" on **SB 261**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording votes. Agreed. Representative McKee moved that he be recorded as voting "yea" on **SB 307, SB 311, SJR 118, SB 313,** and **SB 318**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ford moved that he be recorded as voting "yea" on **HR 130, SB 228, SB 248,** and **SCR 131**. Agreed.

Representative G. Graham moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative G. Graham moved that his vote be changed from "yea" to "nay" on **HB 258**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that she be recorded as voting "yea" on **SB 307**. Agreed.

The following member filed a requests to have his name added as co-sponsor of a Bill under rules previously suspended: **HB 330**, Representative Riggs.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 30, 1998.

The motion that the House adjourn until 4:00 p.m., March 30, 1998 was adopted by voice vote.

MONDAY, MARCH 30, 1998

FIFTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Michael Greer, Immanual Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Vincent.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 27, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **HB 78, HB 246, HB 271, HB 274, HB 275, HB 447, HB 484, HB 552, HB 590, HB 611, HB 625, HB 626, HB 630, HB 650, HB 690, HB 716, HB 746, HB 754, HB 782, HB 880, HCR 7, HCR 15, HCR 16, HCR 17, HCR 18, HCR 20, HCR 94, HCR 97, HJR 98, HJR 109, HCR 113, HJR 115, HJR 116, HJR 118,** and **HCR 119**. Message received on **HB 321**: The Senate has refused to recede from its Senate Committee Substitute and Senate Floor Amendment No. 1, Senate Floor Amendment No. 5, Senate Floor Amendment No. 7, Senate Floor Amendment No. 8, Senate Floor Amendment No. 9, Senate Floor Amendment No. 10, Senate Floor Amendment No. 13, Senate Floor Amendment No. 14, and Senate Floor Amendment No. 17 and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Saunders, Chair; Senators Karem and Kelly. Message received on **HB 74**: The Senate has passed **HB 74** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 229**: The Senate has passed **HB 229** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 230**: The Senate has passed **HB 230** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 272**: The Senate has passed **HB 272** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 273**: The Senate has passed **HB 273** with Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 460**: The Senate has passed **HB 460** with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. Message received on **HB 510**: The Senate has passed **HB 510** with Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HB 519**: The Senate has passed **HB 519** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 536**: The Senate has passed **HB 536** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 740**: The Senate has passed **HB 740** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 779**: The Senate has passed **HB 779** with Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 815**: The Senate has passed **HB 815** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 900**: The Senate has passed **HB 900** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HCR 11**: The Senate has passed **HCR 11** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. Message received on **HJR 92**: The Senate has passed **HJR 92** with Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 618, HB 724, SB 146, SB 307, SB 311, SB 313, SB 318,** and **SJR 118** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:40 p.m.)

Representative Hatcher moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation.

Agreed. Representative Hatcher moved the adoption of the following **Legislative Citation No. 231**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Parker Neff for the extraordinary compassion and community spirit he exhibited by raising $1,000.70 to help pay the funeral expenses of 12-year old Jermaine Bell, who was tragically struck by a moving vehicle while crossing the street. A third grade student from Prospect, Kentucky, Parker was awarded an Eagle Award by St. Francis School for following the school "Eagle Code" of responsibility, respect, cooperation and compassion. Inasmuch as this exceptional young Kentucky citizen has acted with tremendous fortitude and has poignantly illustrated the generosity of the human spirit, this honorable body is pleased to join Representative E. Porter Hatcher, Jr. in paying tribute to Parker Neff for his humanitarian effort and in extending to him best wishes in all future endeavors. **Legislative Citation No. 231** was adopted without objection.

Floor Amendments

Floor Amendment No. 4 to **SB 95**, by Representative Burch:

On page 1, after line 11, by inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The commissioner of the Department of Personnel, on the recommendation of the secretary of the Cabinet for Human Resources, may extend those portions of pilot programs that were developed and approved for the purpose of maintaining a pool of available applicants for family services workers positions and the alternative classification and pay system until June 30, 2000. The Cabinet for Human Resources may promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.

Section 3. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to Cabinet for Human Resources appearing in Section 2 of this Act shall be codified as the Cabinet for Families and Children.".

Floor Amendment No. 1 to **SB 186**, by Representative Colter:

On page 2, on line 21, after "***(5)***", by inserting:

"***One (1) demonstration site for a research-based integrated reading program shall be established in Clay County in 1998-1999, and funded from the reading incentive fund that is established in subsection (2) of this section.***

(6) ___"; and

On page 3, line 3, change "***(6)***" to "***(7)***".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 154, HR 155**

A Conference Committee Report was filed on **HB 321**.

Representative Moberly moved that the Conference Committee Report on **HB 321** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 321**.

Report of Committees

The Committee on Judiciary reported **SB 387**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 387, AN ACT relating to the judicial branch.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

(1) First Judicial District. Fulton and Hickman.

(2) Second Judicial District. McCracken.

(3) Third Judicial District. Christian.
(4) Fourth Judicial District. Hopkins.
(5) Fifth Judicial District. Crittenden, Union and Webster.
(6) Sixth Judicial District. Daviess.
(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart and Larue.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.
(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair ***and***[~~,~~] Casey[~~, Cumberland and Monroe~~].
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.

(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.
(57) Fifty-seventh Judicial District. Nelson.
(58) Fifty-eighth Judicial District. Marshall.
(59) Fifty-ninth Judicial District. Ballard and Carlisle.
(60) Sixtieth Judicial District. Cumberland and Monroe.

Section 2. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) Second Judicial District.
(2) Third Judicial District.
(3) Fourth Judicial District.
(4) Ninth Judicial District.
(5) Eleventh Judicial District.
(6) Twelfth Judicial District.
(7) Thirteenth Judicial District.
(8) Fourteenth Judicial District.
(9) Fifteenth Judicial District.
(10) Eighteenth Judicial District.
(11) Twenty-first Judicial District.
(12) Twenty-fourth Judicial District.
(13) Twenty-seventh Judicial District.
(14) Twenty-eighth Judicial District.
(15)[~~Twenty-ninth Judicial District.~~
~~(16)~~] Thirty-second Judicial District.
(16)[~~(17)~~] Thirty-fourth Judicial District.
(17)[~~(18)~~] Thirty-fifth Judicial District.
(18)[~~(19)~~] Thirty-eighth Judicial District.
(19)[~~(20)~~] Fortieth Judicial District.
(20)[~~(21)~~] Forty-first Judicial District.
(21)[~~(22)~~] Forty-sixth Judicial District.
(22)[~~(23)~~] Forty-eighth Judicial District.
(23)[~~(24)~~] Fiftieth Judicial District.
(24)[~~(25)~~] Fifty-first Judicial District.
(25)[~~(26)~~] Fifty-third Judicial District.
(26)[~~(27)~~] Fifty-fourth Judicial District.
(27)[~~(28)~~] Fifty-fifth Judicial District.
(28)[~~(29)~~] Fifty-sixth Judicial District.

Section 3. Those candidates who have filed for the office of District Judge in the 29th Judicial District for the term of office commending on or about January 4, 1999, shall be deemed to have filed for the district judgeship in the judicial district where they reside. Any candidate who resided in Casey County or Adair County at the time of filing shall be deemed to be a candidate for district judge in the 29th Judicial District, and any candidate who resided in Cumberland County or Monroe County at the time of filing shall be deemed to be a candidate for district judge in the 60th Judicial District.

The House Committee Substitute to **SB 387** is as follows:

AN ACT relating to the judicial branch.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

(1) First Judicial District. Fulton and Hickman.
(2) Second Judicial District. McCracken.
(3) Third Judicial District. Christian.
(4) Fourth Judicial District. Hopkins.
(5) Fifth Judicial District. Crittenden, Union and Webster.
(6) Sixth Judicial District. Daviess.
(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart and Larue.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.
(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair ***and***[~~,~~] Casey[~~, Cumberland and Monroe~~].
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway.

(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.
(57) Fifty-seventh Judicial District. Nelson.
(58) Fifty-eighth Judicial District. Marshall.
(59) Fifty-ninth Judicial District. Ballard and Carlisle.
(60) Sixtieth Judicial District. Cumberland and Monroe.

Section 2. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) Second Judicial District.
(2) Third Judicial District.
(3) Fourth Judicial District.
(4) Ninth Judicial District.
(5) Eleventh Judicial District.
(6) Twelfth Judicial District.
(7) Thirteenth Judicial District.
(8) Fourteenth Judicial District.
(9) Fifteenth Judicial District.
(10) Eighteenth Judicial District.
(11) Twenty-first Judicial District.
(12) Twenty-fourth Judicial District.
(13) Twenty-seventh Judicial District.
(14) Twenty-eighth Judicial District.
(15)[~~Twenty-ninth Judicial District.~~
~~(16)~~] Thirty-second Judicial District.
(16)[~~(17)~~] Thirty-fourth Judicial District.
(17)[~~(18)~~] Thirty-fifth Judicial District.
(18)[~~(19)~~] Thirty-eighth Judicial District.
(19)[~~(20)~~] Fortieth Judicial District.
(20)[~~(21)~~] Forty-first Judicial District.
(21)[~~(22)~~] Forty-sixth Judicial District.
(22)[~~(23)~~] Forty-eighth Judicial District.
(23)[~~(24)~~] Fiftieth Judicial District.
(24)[~~(25)~~] Fifty-first Judicial District.
(25)[~~(26)~~] Fifty-third Judicial District.

(26)[~~(27)~~] Fifty-fourth Judicial District.

(27)[~~(28)~~] Fifty-fifth Judicial District.

(28)[~~(29)~~] Fifty-sixth Judicial District.

Section 3. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.
(2) Third Judicial Circuit.
(3) Sixth Judicial Circuit.
(4) Eighth Judicial Circuit.
(5) Ninth Judicial Circuit.
(6) Seventeenth Judicial Circuit.
(7) Twenty-fourth Judicial Circuit.
(8) Twenty-fifth Judicial Circuit.
(9) Twenty-seventh Judicial Circuit.
(10) ***Twenty-ninth Judicial Circuit;***
(11) Twenty-eighth Judicial Circuit.
(12)[~~(11)~~] Thirty-first Judicial Circuit.
(13)[~~(12)~~] Thirty-second Judicial Circuit.
(14)[~~(13)~~] Thirty-fourth Judicial Circuit.
(15)[~~(14)~~] Thirty-fifth Judicial Circuit.
(16)[~~(15)~~] Forty-eighth Judicial Circuit.

Section 4. Those candidates who have filed for the office of District Judge in the 29th Judicial District for the term of office commending on or about January 4, 1999, shall be deemed to have filed for the district judgeship in the judicial district where they reside. Any candidate who resided in Casey County or Adair County at the time of filing shall be deemed to be a candidate for district judge in the 29th Judicial District, and any candidate who resided in Cumberland County or Monroe County at the time of filing shall be deemed to be a candidate for district judge in the 60th Judicial District.

Section 5. The filling of the office of the judgeship created by Section 3 of this Act shall be contingent upon an appropriation therefor being made by the 1998 Regular Session of the General Assembly.

The Committee on Labor and Industry reported **SB 319** and **SB 368** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 319, AN ACT relating to fire protection and firefighters and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of ***eighteen (18)***[~~seventeen (17)~~] members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:
   (a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;
   (b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;
   (c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;
   (d) Two (2) fire chiefs of paid fire departments;
   (e) One (1) licensed physician;
   (f) Two (2) fire chiefs of volunteer fire departments;
   (g) One (1) teacher or administrator representing the fire and rescue training service of the Kentucky Community and

Technical College System;

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise;[~~ and~~]

(l) One (1) representative of the general public***; and***

(m) One (1) representative of an industrial fire department.

The chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System and the state fire marshal, ***and the elected presidents of the Kentucky Firefighters Association and the Kentucky Professional Firefighters*** or their designees, shall serve as ex officio members of the commission. Their designees shall ***not*** have[~~ full~~] voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 2. KRS 95A.040 is amended to read as follows:

(1) The commission shall have authority to make full and complete studies, recommendations and reports to the Governor and the Legislature for the purpose of:

(a) ***Establishing***[~~Suggesting~~] minimum standards and education of fire protection personnel appointed to positions in[~~ municipal~~] fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation and other allied fields;

(b) ***Establishing***[~~Suggesting~~] basic minimum courses of training for fire protection personnel;

(c) ***Establishing***[~~Suggesting~~] procedure for the certification of fire protection personnel and the certification of fire protection instructors.

(2) The commission shall have the authority to:

(a) Certify fire protection training and education programs as having attained the minimum required standards ***established***[~~suggested~~] by such commission;

(b) Certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;

(c) Direct research in the field of fire protection and accept gifts and grants for such purposes;

(d) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(3) The commission shall have authority to receive and to the extent required by federal law to disburse all grants and funds from the federal government for the purpose of fire protection personnel training and education. Except as otherwise provided by law, the ***commission***[~~Department of Insurance~~] shall administer all state programs and all state and federally funded grant programs related to fire protection personnel training and education.

(4) With respect to the industrial structural fire departments that are not operated by a unit of government or are not covered by KRS Chapter 75, the commission shall:

(a) Recognize training, conducted by the industrial structural fire department, that meets federal Department of Labor standards;

(b) Certify instructors;

(c) Maintain training records of firefighters;

(d) Certify industrial structural firefighters meeting minimum standards applicable to industrial structural fire departments; and

(e) Not establish any standard or requirement for industrial structural fire departments, or for the certification of firefighters on industrial structural fire departments, more stringent than those required by standards adopted by the Department of Labor pertaining to Occupational Safety and Health.

(5) The commission may operate a state fire/rescue training academy. Courses may be conducted at the academy or at any other location. The commission may make charges for instructions conducted. Charges shall not exceed the cost

of providing the instruction for persons residing in Kentucky, but charges may exceed the cost of providing the instruction to nonresidents of Kentucky.

Section 3. KRS 95A.210 is amended to read as follows:

As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

(1) "Commission" means the Commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020.

(2) ***"Full-time firefighter" means individuals who work a minimum of one thousand nine hundred fifty (1,950) hours per year as a member of a fire department or fire protection district, and includes jobs involving the suppression, investigation, inspection, and prevention of emergency situations, but does not include public safety officers or any peace officer other than a regular member of a fire protection district or fire department who has responsibility for the prevention and detection of crime other than arson.***

(3) "Fund" means Firefighters Foundation Program Fund.

(4)[~~(3)~~] "Local government" means any city or county, or any combination thereof or urban-county government of the Commonwealth.

(5)[~~(4)~~] "Professional firefighter" means any member of a paid municipal fire department organized under KRS Chapter 95 or a fire protection district organized under KRS Chapter 75, or a county fire department created pursuant to KRS Chapter 67.

Section 4. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

(1) Employs one (1) or more ***full-time*** firefighters.

(2) Pays every firefighter a minimum annual salary ***at least equal to the federal minimum wage***[~~of eight thousand dollars ($8,000)~~].

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of firefighters on or after August 1, 1980. All firefighters employed prior to August 1, 1980, shall be deemed to have met requirements of this subsection.

(4) Requires all firefighters employed on or after July 15, 1982, to successfully complete a basic training course of a minimum of four hundred (400) hours duration as mandated by the commission as to subject matter and number of hours for each subject, within one (1) year of the date of employment at a school or method certified or recognized by the commission.

(5) Requires all firefighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the firefighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission.

(6) Requires compliance with all provisions of law applicable to local firefighters.

(7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention district, issued by the commission to facilitate the administration of the fund and further the provisions of KRS 95A.200 to 95A.300.

Section 5. KRS 75.400 is amended to read as follows:

As used in KRS 75.400 to 75.460, unless the context requires otherwise:

(1) "Commission" means the Commission on Fire Protection Personnel Standards and Education, attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) "Fire department" includes all of the officers, firefighters, and clerical and maintenance employees, whether paid or volunteer.

(3) "Full-time paid firefighter" means an individual who receives a minimum salary ***at least equal to the federal minimum wage***[~~of eight thousand dollars ($8,000)~~] annually, and who works a minimum of ***one thousand nine hundred fifty (1,950)***[~~two thousand and eighty (2,080)~~] hours per year as an employee of a fire department recognized by the fire commission.

(4) "Paid fire department" means a fire department recognized by the commission, of which at least fifty percent (50%) of its firefighters are full-time paid firefighters.

(5) "Volunteer fire department" means a fire department with a minimum of twelve (12) members and a chief, at least one (1) operational fire apparatus or one (1) on order, with fewer than fifty percent (50%) of its firefighters being full-time paid firefighters.

Section 6. KRS 75.430 is amended to read as follows:

(1) Each recognized and certified fire department created pursuant to KRS Chapter 273 shall send a copy of its annual report as required by KRS 273.3671 to the commission at the time the report is filed with the Secretary of State.

(2) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes less than one hundred thousand dollars ($100,000) shall prepare a financial statement and ***post***[~~submit~~] it ***in***[~~to~~] the ***fire station***[~~commission~~] by July 31 of each year.

(3) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes one hundred thousand dollars ($100,000) or more shall prepare a financial statement and shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform a review of the financial statement, and shall ***post***[~~submit~~] the reviewed statement ***in***[~~to~~] the ***fire station***[~~commission~~] by July 31 of each year.

SECTION 7. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

(1) When a firefighter dies at a fire or other emergency or at a fire or rescue training event, responding thereto or returning therefrom, or as a result of any emergency in the foregoing, an autopsy shall be conducted to:

(a) Determine the cause of death; and

(b) Determine if the death was related to or as a result of the firefighter's engaging in an activity specified above.

(2) The autopsy shall be conducted by the state medical examiner's office and paid for from state funds.

Section 8. Whereas the dangerous nature of the firefighting profession necessitates that these provisions take effect before July 15, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 368, AN ACT relating to health insurance coverage of city pension fund retirees and their spouses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "City" means a city that maintains a policemen's pension fund, a firefighters' pension fund, or a policemen's and firefighters' pension fund established under this chapter;

(b) "Health insurance coverage" means health maintenance organization coverage, hospitalization benefits, or other health or medical care coverage provided under KRS 79.080; and

(c) "Pension fund" does not include the County Employees Retirement System, which shall continue to be subject to KRS 61.702.

(2) If a city provides health insurance coverage for city employees in accordance with KRS 79.080, the city shall permit a pension fund member retired for service or disability and who is not Medicare eligible, as provided in 42 U.S.C. sec. 1395, to participate in the same health insurance coverage by submitting a request for admission to the city's health care plan administrator. Upon the request of the retired pension fund member or the member's surviving spouse, the city shall also permit the retired member's spouse or surviving spouse to participate in the health insurance coverage provided pursuant to KRS 79.080, regardless of any prior insurance by which they may be covered. The cost for participation in health care coverage as provided by this subsection shall be paid by the retired pension fund member or the member's spouse or surviving spouse.

The Committee on Appropriations and Revenue reported **SB 186** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Calendar

SB 370 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 368**, by Representative Stein:

On Page 1, after line 22, by adding the following, "SECTION 2. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of any policemen's and firefighters' retirement fund of an urban-county shall arrange by appropriate contract to provide a broad program of hospital and medical insurance coverage for the benefit of members retired for service or disability. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. For recipients eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage that, combined with the Medicare coverage, affords the recipient coverage comparable to that afforded recipients not eligible for Medicare coverage.

(2) Members shall qualify for hospital and medical benefits as described in subsection (1) of this section in the same manner necessary to qualify for a retirement annuity under KRS 67A.410, 67A.420, 67A.460, or 67A.470.

(3) The coverage provided shall be as set forth in the contracts and regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants.

(4) The board of trustees may promulgate rules and regulations to assure efficient operation of the hospital and medical insurance program.

(5) The urban-county government shall contribute to the policemen's and firefighters' retirement fund of the urban-county government the amount necessary to provide hospital and medical insurance as provided for under this section. The amount of the contributions shall be developed by appropriate actuarial method.

(6) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if that child has been determined to be eligible for Social Security disability benefits.".

Floor Amendment No. 16 to **SB 121**, by Representative Geveden:

On page 9, after line 22, by inserting the following:

"Section 5. This Act takes effect January 1, 2000.".

Floor Amendment No. 4 to **SB 171**, by Representative Cave:

On page 1, between lines 14 and 15, to insert the following:

"*The evidence presented shall be limited to statistical evidence relating solely to the county in which the crime was alleged to be committed or, in the case of a change of venue, upon the request of the prosecution or defense, shall be limited solely to evidence from the county in which the trial is being held.*".

Floor Amendment No. 2 to **SB 186**, by Representative Moberly:

On page 1, line 3, after "*section*", by inserting "*and Section 3 of this Act*"; and

On page 1, line 23, after "*The*", by deleting "*Kentucky Board*" and inserting "*Department*" and after "*Education*", by inserting "*, upon the recommendation of the Early Reading Incentive Grant Steering Committee,*", and after "*shall*", by deleting "*use the*"; and

On page 1, line 24, before "*provide*", by deleting "*fund to*"; and

On page 2, line 2, after "*levels.*", by inserting "*Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.*"; and

On page 2, line 3, after "*(3)*", by inserting "*Upon recommendation of the Early Reading Incentive Grant Steering Committee,*" and by making the initial letter of "*The*" lowercase; and

On page 2, line 19, after "*Section*", by deleting "*2*" and inserting "*4*"; and

On page 2, line 24, after "*Section*", by deleting "*2*" and inserting "*3*"; and

On page 3, line 6, after "*Section*", by deleting "*2*" and inserting "*3*"; and

On page 3, between lines 6 and 7, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky

Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by Section 1 of this Act. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, a representative from the Advisory Council for Adult Education and Literacy to be selected by its membership, and the following members, to be appointed by the Governor:

- ***(a) Two (2) primary program teachers with a specialty or background in reading and literacy;***
- ***(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and***
- ***(c) Two (2) individuals from the state at large with background and interest in reading and literacy.***

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

- ***(a) Identify needs in schools throughout the state regarding reading and literacy programs;***
- ***(b) Develop criteria for the solicitation, review, and approval of grant applications provided under Section 1 of this Act;***
- ***(c) Develop a process for monitoring grants that are awarded; and***
- ***(d) Recommend approval of grant applications based upon criteria established by the committee.***"; and

On page 3, line 7, after "SECTION", by deleting "2" and inserting "3"; and

On page 3, line 24, by deleting "***and***"; and

On page 3, line 27, after "***Act***", by deleting the period "***.***" and inserting the following:

"***; and***

(f) Establishing a demonstration and training site for early literacy located at each of the public universities."; and

On page 4, line 2, after "***Commission***", by inserting "***no later than September 1 of each year***"; and

On page 4, line 8, after "***location***", by inserting "***no later than October 1, 1998,***"; and

On page 4, line 10, after "Section", by deleting "3" and inserting "4".

Floor Amendment No. 4 to **SB 227**, by Representative Damron:

On page 1, by deleting lines 1 through 13, in their entirety and inserting the following in lieu thereof:

"Section 1. In the event that House Bill 315 of this Regular Session passes the General Assembly including the language contained in subsection (4) of Section 28 of the Senate Committee Substitute to that Bill, found at page 63, lines 12 through 17, and the language contained in Senate Floor Amendment 25 (document number 983891) to that Bill, and the Governor signs House Bill 315 or it otherwise becomes a law, that section of the enrolled version of House Bill 315 corresponding to Section 28 of the Senate Committee Substitute to that Bill is amended to read as follows:

'(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

- (a) An adequate number of accessible acute care hospital services, where available;
- (b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;
- (c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;
- (d) The availability of specialty services; and
- (e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30)

minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

[~~(4) A managed care plan shall cover emergency room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.~~]'

Section 2. Section 1 of 1996 Kentucky Acts Chapter 106 (Senate Bill 63) is amended to read as follows:

(1) All health benefit plans shall provide coverage, including therapeutic, respite, and rehabilitative care, for the treatment of autism of a child covered under the policy.

(2) Coverage for autism shall be subject to a five hundred dollar ($500) maximum benefit per month, per covered child. This limit shall not apply to other health conditions of the child and services for the child not related to the treatment of autism.

(3) As used in this section, "autism" means:

(a) A total of six (6) or more items from subparagraphs 1., 2., and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.

(4) As used in this section, "child" means a person two (2) through twenty-one (21) years of age.

Section 3. It is the intention of the General Assembly in enacting Section 1 of this Act to resolve the substantive conflict between the provisions referenced in Section 1 of this Act. If this Act becomes law, the Reviser of Statutes is authorized and directed to effectuate Section 1 of this Act notwithstanding KRS 446.250 and 7.990.

Section 4. Whereas House Bill 315 contains an emergency effective date provision and it is necessary to resolve a conflict relating to that Bill that will exist if that Bill becomes law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Orders of the Day

SB 18, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of Floor Amendment No. 8 to **SB 18**. Agreed.

Representative Nunn moved that **SB 18**, as amended, be passed.

Representative Allen moved the adoption of Floor Amendment No. 1 to **SB 18**. On the roll call on Floor Amendment No. 1 to **SB 18** the vote was: Yeas 19, Nays 67 (See March 30, 1998, roll call on **SB 18** - Appendix.) Floor Amendment No. 1 to **SB 18** was rejected.

Representative Nunn moved that **SB 18**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 9 (See March 30, 1998 roll call on **SB 18** - Appendix.) **SB 18**, as amended, was passed and the title agreed to. Representative Nunn moved that the vote by which **SB 18**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 19, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Floor Amendment No. 1 to **SB 19**. Agreed.

Representative Mason moved that **SB 19**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 30, 1998 roll call on **SB 19** - Appendix.) **SB 19**, as amended, was passed and the title agreed to. Representative Mason moved that the vote by which **SB 19**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 242, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **SB 242** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 30, 1998 roll call on **SB 242** - Appendix.) **SB 242** was passed and the title agreed to. Representative Siler moved that the vote by which **SB 242** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 133, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved that **SB 133** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 30, 1998 roll call on **SB 133** - Appendix.) **SB 133** was passed and the title agreed to. Representative Zimmerman moved that the vote by which **SB 133** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 353 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved that **SB 353** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 30, 1998 roll call on **SB 353** - Appendix.) **SB 353** was passed and the title agreed to. Representative Cave moved that the vote by which **SB 353** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 395, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **SB 395**. Agreed.

Representative Stacy moved the adoption of Floor Amendment No. 2 to **SB 395**. Agreed.

Representative Barrows moved that **SB 395**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 30, 1998 roll call on **SB 395** - Appendix.) **SB 395**, as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **SB 395**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

• Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 227**, by Representative Damron:

On page 1, by deleting lines 1 through 13, in their entirety and inserting the following in lieu thereof:

"Section 1. In the event that House Bill 315 of this Regular Session passes the General Assembly including the language contained in subsection (4) of Section 28 of the Senate Committee Substitute to that Bill, found at page 63, lines 12 through 17, and the language contained in Senate Floor Amendment 25 (document number 983891) to that Bill, and the Governor signs House Bill 315 or it otherwise becomes a law, that section of the enrolled version of House Bill 315 corresponding to Section 28 of the Senate Committee Substitute to that Bill is amended to read as follows:

'(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:
  (a) An adequate number of accessible acute care hospital services, where available;
  (b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;
  (c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;
  (d) The availability of specialty services; and
  (e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

~~[(4) A managed care plan shall cover emergency room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.]~~'

Section 2. Section 1 of 1998 Kentucky Acts Chapter 106 (Senate Bill 63) is amended to read as follows:

(1) All health benefit plans shall provide coverage, including therapeutic, respite, and rehabilitative care, for the treatment of autism of a child covered under the policy.

(2) Coverage for autism shall be subject to a five hundred dollar ($500) maximum benefit per month, per covered child. This limit shall not apply to other health conditions of the child and services for the child not related to the treatment of autism.

(3) As used in this section, "autism" means:
  (a) A total of six (6) or more items from subparagraphs 1., 2., and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:
    1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:
      a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;
      b. Failure to develop peer relationships appropriate to developmental level;
      c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or
      d. Lack of social or emotional reciprocity.
    2. Qualitative impairments in communication as manifested by at least one (1) of the following:
      a. Delay in, or total lack of, the development of spoken language;
      b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a

conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.

(4) As used in this section, "child" means a person two (2) through twenty-one (21) years of age.

Section 3. It is the intention of the General Assembly in enacting Section 1 of this Act to resolve the substantive conflict between the provisions referenced in Section 1 of this Act. If this Act becomes law, the Reviser of Statutes is authorized and directed to effectuate Section 1 of this Act notwithstanding KRS 446.250 and 7.990.

Section 4. Whereas House Bill 315 contains an emergency effective date provision and it is necessary to resolve a conflict relating to that Bill that will exist if that Bill becomes law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Orders of the Day

SB 95, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 3 to **SB 95**. Representative Walton inquired if Floor Amendment No. 3 was germane to **SB 95**. The Speaker ruled that Floor Amendment No. 3 was not germane to **SB 95**.

Representative Burch moved that **SB 95** be passed.

Representative Coleman moved the adoption of Floor Amendment No. 2 to **SB 95**. Agreed.

Representative Burch moved that **SB 95**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 30, 1998 roll call on **SB 95** - Appendix.) **SB 95**, as amended, was passed and the title agreed to. Representative Burch moved that the vote by which **SB 95**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 128, with House Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the House Committee Substitute to **SB 128**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 128**. Agreed.

Representative Stein moved that **SB 128**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 30, 1998 roll call on **SB 128** - Appendix.) **SB 128**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Stein moved that the vote by which **SB 128**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 224, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the House Committee Substitute to **SB 224**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 224**. Representative Kerr inquired if Floor Amendment No. 2 to the House Committee Substitute was germane to **SB 224**. The Speaker ruled that Floor Amendment No. 2 to the House Committee Substitute was not germane to **SB 224**.

Representative Worthington moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 224**. Representative Cave inquired if Floor Amendment No. 1 to the House Committee Substitute was germane to **SB 224**. The Speaker ruled that Floor Amendment No. 1 to the House Committee Substitute was germane to **SB 224**. On the roll call on Floor Amendment No. 1 to the House Committee Substitute to **SB 224** the vote was: Yeas 56, Nays 38 (See March 30, 1998, roll call on **SB 224** - Appendix.) Floor Amendment No. 1 to the House Committee Substitute to **SB 224** was adopted.

Representative Palumbo moved that **SB 224**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 30, 1998 roll call on **SB 224** - Appendix.) **SB 224**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **SB 224**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 17 to **SB 121**, by Representative Lindsay:

On page 9, below line 22 , to insert the following:

"Section 4. The Commonwealth shall not defend or pay for the defense of the constitutionality of this Act.".

Orders of the Day (Continued)

SB 392, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **SB 392** be passed.

Representative Yonts moved the adoption of Floor Amendment No. 4 to **SB 392**. Rejected.

On the roll call the vote was: Yeas 67, Nays 29 (See March 30, 1998 roll call on **SB 392** - Appendix.) **SB 392** was passed and the title agreed to. Representative Coleman moved that the vote by which **SB 392** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 304 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **SB 304** be passed.

On the roll call the vote was: Yeas 64, Nays 29 (See March 30, 1998 roll call on **SB 304** - Appendix.) **SB 304** was passed and the title agreed to. Representative Thomas moved that the vote by which **SB 304** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 78, HB 246, HB 271, HB 274, HB 275, HB 447, HB 484, HB 552, HB 590, HB 611, HB 625, HB 626, HB 630, HB 650, HB 690, HB 716, HB 746, HB 754, HB 782, HB 880, HCR 7, HCR 15, HCR 16, HCR 17, HCR 18, HCR 20, HCR 94, HCR 97, HJR 98, HJR 109, HCR 113, HJR 115, HJR 116, HJR 118, HCR 119** have been correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time: 6:45 p.m.)

Orders of the Day (Continued)

SB 343, with Floor Amendments taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 343** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 30, 1998 roll call on **SB 343** - Appendix.) **SB 343** was passed and the title agreed to. Representative Bruce moved that the vote by which **SB 343** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 145 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 145** be passed.

On the roll call the vote was: Yeas 88, Nays 5 (See March 30 , 1998 roll call on **SB 145** - Appendix.) **SB 145** was passed and the title agreed to. Representative Marzian moved that the vote by which **SB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 351, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved the adoption of the House Committee Substitute to **SB 351**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 351**. Agreed.

Representative Johns moved that **SB 351**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 30, 1998 roll call on **SB 351** - Appendix.) **SB 351**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Johns moved that the vote by which **SB 351**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 357 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **SB 357** be passed.

On the roll call the vote was: Yeas 80, Nays 7 (See March 30, 1998 roll call on **SB 357** - Appendix.) **SB 357** was passed and the title agreed to. Representative D. Butler moved that the vote by which **SB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 360 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **SB 360** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 30, 1998 roll call on **SB 360** - Appendix.) **SB 360** was passed and the title agreed to. Representative Crimm moved that the vote by which **SB 360** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 168, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **SB 168** be passed.

On the roll call the vote was: Yeas 84, Nays 0 (See March 30, 1998 roll call on **SB 168** - Appendix.) **SB 168** was passed and the title agreed to. Representative Mason moved that the vote by which **SB 168** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 300 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 300** be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 30, 1998 roll call on **SB 300** - Appendix.) **SB 300** was passed and the title agreed to. Representative Deskins moved that the vote by which **SB 300** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 364, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **SB 364**. Agreed.

Representative Brown moved that **SB 364**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 4 (See March 30, 1998 roll call on **SB 364** - Appendix.) **SB 364**, as amended, was passed and the title agreed to. Representative Brown moved that the vote by which **SB 364**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 144, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Floor Amendment No. 1 to **HR 144**. Agreed.

Representative Riner moved that **HR 144**, as amended, be adopted.

On the roll call the vote was: Yeas 95, Nays 0 (See March 30, 1998 roll call on **HR 144** - Appendix.) **HR 144**, as amended, was adopted. Representative Riner moved that the vote by which **HR 144**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HR 136** be adopted.

On the roll call the vote was: Yeas 91, Nays 3 (See March 30, 1998 roll call on **HR 136** - Appendix.) **HR 136** was adopted. Representative Colter moved that the vote by which **HR 136** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 159** be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 30, 1998 roll call on **SB 159** - Appendix.) **SB 159** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 159** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 197 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 197** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 30, 1998 roll call on **SB 197** - Appendix.) **SB 197** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 197** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 171, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 171** be passed.

Representative Cave moved the adoption of Floor Amendment No. 2 to **SB 171**. On the roll call on Floor Amendment No. 2 to **SB 171** the vote was: Yeas 34, Nays 54 (See March 30, 1998, roll call on **SB 171** - Appendix.) Floor Amendment No. 2 to **SB 171** was rejected.

Representative Cave moved that the rules be suspended to consider Floor Amendment No. 5 to **SB 171** which was improperly drafted as Floor Amendment No. 2 to **SB 177**. Agreed. Representative Cave moved the adoption of Floor Amendment No. 5 to **SB 171**. On the roll call on Floor Amendment No. 5 to **SB 171** the vote was: Yeas 43, Nays 50 (See March 30, 1998, roll call on **SB 171** - Appendix.) Floor Amendment No. 5 to **SB 171** was rejected.

Representative Treesh moved the adoption of Floor Amendment No. 3 to **SB 171**. Representative Long inquired if Floor Amendment No. 3 to **SB 171** was a piggyback. The Speaker ruled that Floor Amendment No. 3 to **SB 171** was a piggyback. Representative Treesh moved that the rules be suspended to consider Floor Amendment No. 3 to **SB 171**. On the roll call on the motion to suspend the rules to consider Floor Amendment No. 3 to **SB 171** the vote was: Yeas 52, Nays 36 (See March 30, 1998, roll call on **SB 171** - Appendix.) The motion to suspend the rules to consider Floor Amendment No. 3 to **SB 171** was adopted. Representative Treesh moved the adoption of Floor Amendment No. 3 to **SB 171**. On the roll call on Floor Amendment No. 3 to **SB 171** the vote was: Yeas 40, Nays 50 (See March 30, 1998, roll call on **SB 171** - Appendix.) Floor Amendment No. 3 to **SB 171** was rejected.

Representative Crenshaw moved that **SB 171** be passed.

On the roll call the vote was: Yeas 70, Nays 23 (See March 30, 1998 roll call on **SB 171** - Appendix.) **SB 171** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **SB 171** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 320, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 320** is as follows:

HB 320, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund and for services performed by the Circuit Clerk's offices, including both Circuit and District Court support. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

	1998-99	1999-00
1. Court of Justice		
a. Court operations and administration		
General Fund	118,362,000	127,417,200
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	123,374,000	132,301,200

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1998-99 and in fiscal year 1999-2000 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices, judges, and circuit clerks in fiscal year 1998-99 and a five percent (5%) adjustment for the justices, judges, and circuit clerks in fiscal year 1999-2000. Restricted funds of $700,000 in each fiscal year are included for the Jefferson County Court technology improvement system as described in Part II, Capital Projects Budget.

b. Local facilities fund

	1998-99	1999-00
General Fund	27,091,500	32,934,100

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into fiscal year 1998-99 and any unexpended balance at the close of fiscal year 1998-99 shall not lapse, but shall be continued into fiscal year 1999-2000.

	1998-99	1999-00
Total Court of Justice		
General Fund	145,453,500	160,351,300
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000

Total	150,465,500	165,235,300

2. Judicial Form Retirement System

	1998-99	1999-00
General Fund	6,407,500	6,418,000

General Fund amounts are included to provide for the 1997 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $135,000 in each fiscal year contingent upon passage of enabling legislation related to the judicial retirement plan.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	151,861,000	166,769,300
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
TOTAL	156,873,000	171,653,300

PART II

CAPITAL PROJECTS BUDGET

A. Court Facility Use Allowance Contingency Fund

	1998-99	1999-00
General Fund	500,000	1,422,500

General Fund amounts are included to provide for cost overruns in court facility projects authorized by the 1996 General Assembly and the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun, not to exceed fifteen percent (15%), shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as required for any authorized cost overruns.

B. Court Designated Worker Case Management System

	1998-99
General Fund	500,000

General Fund amounts are appropriated in the capital budget for implementation of the court designated worker case management system. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation of the court designated worker case management system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

C. Jefferson County Court Technology Improvement System

	1998-99	1999-00
Restricted Funds	700,000	700,000

Restricted Funds are included in the Operating Budget for implementation of the Jefferson County court technology improvement system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation for the Jefferson County court technology improvement system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

D. Local Facility Projects

Multiyear schedule for the use allowance payments for the capital costs for each local facility project is contained in the Judicial Branch Budget Memorandum.

1.	Bell County - Project Scope	6,393,200
2.	Christian County - Project Scope	9,560,800
3.	Project Pool - Project Scope	18,507,300
4.	Henderson County - Project Scope	8,019,800
5.	Kenton County Phase II - Project Scope	4,515,600
6.	Marshall County - Project Scope	7,383,800
7.	Harrison County - Project Scope	6,152,000

8.	Boone County - Project Scope	7,971,900
9.	Fayette County - Revised Scope	62,500,000
10.	Lyon County - Project Scope	4,758,500
11.	McCreary County - Project Scope	5,183,100
12.	ADA Pool - Project Scope	3,952,200
13.	Harlan County - Project Scope	5,857,400
14.	Lewis County - Project Scope	5,299,700
15.	McLean County - Project Scope	3,752,100
16.	Lincoln County - Revised Scope	2,260,000
17.	Mason County - Revised Scope	4,531,700
18.	Franklin County - Lease Office Space (Millcreek Park)	
19.	Franklin County - Lease Court of Appeals (Democrat Drive)	

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Court Facility Use Allowance Contingency Fund. In the event funds are not available in the Court Facility Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense.

Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

The Fayette County Courthouse project is expanded in scope from $47,100,000 as authorized by the 1996 General Assembly to $62,500,000. Use allowance payments shall be based on the expanded scope and shall be set at the annual level of $4,000,000; of this sum, $500,000 is appropriated in fiscal year 1999-2000 from the local facilities fund as use allowance on the Fayette County Courthouse parking garage. General Fund support in the Local Facilities Fund is reduced by $1,342,000 in the current biennium which represents $1,242,000 for 2 months' use allowance on the Fayette County Courthouse building, which due to delays in construction, will not be occupied in the 1998-2000 fiscal biennium, and $106,000 reduction to bring the annual level of use allowance on the parking garage to $500,000. Notwithstanding enabling legislation, the expanded project authorization shall not be increased to exceed the authorized project scope of $62,500,000.

Authorization is granted for the expansion of the Kenton County Courthouse Project from $26,494,000, as authorized by the 1996 General Assembly, to $31,009,600. Corresponding use allowance payments and related operating expenses totaling $696,000 shall be deferred to the next biennium.

Authorization is granted to expand the project scope of the Lincoln County Courthouse Project to $2,260,000. The expanded project authorization shall not exceed $2,260,000, notwithstanding any legislation enacted during the 1998 Regular Session that would otherwise permit such an increase.

New courthouse projects are authorized in Bell, Christian, Henderson, Harrison, McCreary, Marshall, Lyon, Boone, Harlan, Lewis, and McLean Counties, as well as, a project pool consisting of new or renovation projects in Allen, Bourbon, Casey, Hickman, Elliott, Menifee, and Webster Counties. General Fund support to provide use allowance payments and related operating expense is deferred to the 2000-2002 fiscal biennium on these projects, with the exceptions of: (a) Henderson County Courthouse Project, for which use allowance/net funding requirements are provided based on a June 1, 2000 occupancy date, totaling $491,000 in fiscal year 2000; and (b) Mason County Courthouse Project, which shall be funded from the Current Services budget in the Local Facilities Fund totaling, $131,000 in fiscal year 1999-2000.

The unexpended balance in the Contingency Fund at the end of fiscal year 1998-99 shall not lapse and shall be continued into fiscal year 1999-2000. If the use allowance on project cost over-runs exceeds available funds in the Contingency Fund, additional use allowance funding requirements shall become a necessary governmental expense.

TOTAL - CAPITAL PROJECTS BUDGET

	1998-99	1999-00
General Fund	1,000,000	1,422,500
Restricted Funds	700,000	700,000
TOTAL	1,700,000	2,122,500

TOTALS - JUDICIAL BRANCH BUDGET

	1998-99	1999-00
General Fund	152,861,000	168,191,800
Restricted Funds	5,102,000	5,140,000
Federal Funds	610,000	444,000
TOTAL FUNDS	158,573,000	173,775,800

PART III
GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriation contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal accounts at the close of the fiscal years ending June 30, 1998, and June 30, 1999, shall not lapse but shall continue into the next fiscal year.

7. Proposed revisions to restricted and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1998-2000 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 Regular Session of the General Assembly.

9. The Court Facility Use Allowance Contingency Fund referenced in this Act shall become effective contingent upon passage of enabling legislation.

PART IV
BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 320** is as follows:

On page 8, by deleting lines 14 and 15 in their entirety.

Representative Moberly moved that the House refuse to concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 320**. Agreed. Representative Moberly moved that the House refuse to concur in the Senate Committee Substitute to **HB 320**. Agreed.

HB 319, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 319** is as follows:

HB 319, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I
OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky. For column display purposes, 1999-00 represents fiscal year 1999-2000.

1998-99	1999-00

1. General Assembly

General Fund	8,759,000	14,300,000
Restricted Funds	115,000	65,000
Total	8,874,000	14,365,000

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year. Included in the above General Fund appropriation is $786,000 in fiscal year 1998-99 and $1,725,000 in fiscal year 1999-2000 for increases in salary and per diem for members of the General Assembly, notwithstanding the provisions of KRS 6.190, 6.213, and 6A.020.

The above General Fund appropriation provides for the continuation of the annual cost of living adjustment authorized for the 1996-98 biennium. Notwithstanding KRS 6.190, 6.213, and 6A.020, the daily compensation provided by KRS 6.190 and 6A.020 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall continue as adjusted on January 1, 1997, and January 1, 1998. Notwithstanding KRS 6.190, 6.213, and 6A.020, the daily compensation provided by KRS 6.190, and 6A.020 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be adjusted on January 1, 1999, and January 1, 2000, by the all urban consumer price index (CPI-U) not to exceed 5 percent (5%) per annum but not less than zero percent (0%) per annum.

2. Legislative Research Commission

General Fund	22,966,500	25,579,000
Restricted Funds	125,000	125,000
Total	23,091,500	25,704,000

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in fiscal year 1998-99 and 261 in fiscal year 1999-2000. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

The above General Fund appropriation includes $364,000 in fiscal year 1998-99 and $264,000 in fiscal year 1999-2000 for the capital projects authorized in the Capital Projects Budget, Part II. Project funds may be transferred to the Capital Construction Fund.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	31,725,500	39,879,000
Restricted Funds	240,000	190,000
TOTAL	31,965,500	40,069,000

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into the 1998-99 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

	1998-99	1999-00
1. Legislative Research Commission		
a. Printing/duplicating machine - rental		
General Fund	264,000	264,000
b. Collating system		
General Fund	100,000	
TOTAL	364,000	264,000

The amounts listed above are not in addition to the funds appropriated in the Operating Budget, Part I.

TOTALS - LEGISLATIVE BRANCH BUDGET

	1998-99	1999-00
General Fund	31,725,500	39,879,000
Restricted Funds	240,000	190,000
TOTAL FUNDS	31,965,500	40,069,000

PART III

GENERAL PROVISIONS

1. The director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the director of the Legislative. Research Commission to prepare a final budget document reflecting the 1998-00 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 session of the General Assembly

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 319** is as follows:

On page 5, after line 1, by inserting the following:

"9. A Task Force on Parenting Functions and Access to Children shall be established to perform a study of the issues relating to parenting, parenting functions, and access to the children, and to make recommendations for changes to the current system that are in the best interest of the child. The task force shall be composed of members of the General Assembly as well as nonmembers, determined by the Legislative Research Commission, but shall contain at least one (1) Circuit Judge, one (1) family court judge, one (1) attorney who does domestic relations work, one (1) person who has expert knowledge of domestic violence, one (1) psychologist, mediator, or domestic relations commissioner, and at least one (1) organization that is known for child advocacy relating to divorce and separation. The Legislative Research Commission shall designate the chair of the committee. The Task Force on Parenting Functions and Access to Children shall make its recommendations to the Legislative Research Commission no later than July 1, 1999. Funding for staff services to be utilized in completing this study shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission."

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 319**. Agreed.
Representative Stumbo moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative Stumbo moved that **HB 319** by way of Senate Committee Substitute as amended by the Senate, be passed.

Representative Riner moved that **HB 319** be laid on the Clerk's Desk and placed back in the Orders of the Day on April 15, 1998. On the roll call the vote was: Yeas 7, Nays 87 (See March 30, 1998, roll call on **HB 319** - Appendix.) The motion that **HB 319** be laid on the Clerk's Desk and placed back in the Orders of the Day on April 15, 1998 was rejected.

On the roll call on the passage of **HB 319** the vote was: Yeas 54, Nays 40 (See March 30, 1998 roll call on **HB 319** - Appendix.) **HB 319**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 319**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 156, by Representative Yonts: A RESOLUTION adjourning the House of Representatives in honor of the National Thumb Pickers Hall of Fame in Muhlenberg County, Kentucky, upon the occasion of its first induction ceremony on April 11, 1998.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 12 Noon, March 31, 1998. Agreed.

Representative Damron moved that the rules be suspended to withdraw Floor Amendment No. 1, Floor Amendment No. 2, and Floor Amendment No. 4 to **SB 227**. Agreed.

Representative Nesler moved the adoption of the following **Legislative Citation No. 232**. Agreed.

Citation of Adjournment The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of W. B. Sanders upon the occasion of his 90th birthday. Born on March 30, 1908, in Corinth, Mississippi, he has been a lifetime supporter of the labor movement in Kentucky. Currently serving as volunteer Executive Secretary of the West Kentucky Building and Construction Trades Council, his dedication to the labor movement is reflected in his many accomplishments, including his service as President of the Board of Jackson House, a residence for the elderly that was sponsored and built by labor union members; his guiding influence as President of the Board of the W. B. Sanders Retirement Center; his award-winning contributions to the Renaissance Home; his instrumental role in obtaining funds for Byrants Ford Road Bridge; and in his contributions to the construction of the East Side Baptist and Southland Baptist Churches and the West Kentucky Easter Seal Center. Recipient of the W. C. Young Award for outstanding and lifelong contribution to the labor movement, he devoted ten years to a successful effort to have the history of labor made available to students in Kentucky schools. A member of the Blue Lodge of Masons for sixty-two years and a Shriner, he was named a Kentucky Colonel and a Duke of Paducah. The entire membership of the House of Representatives joins with Representative Fred Nesler in extending birthday greetings to W. B. Sanders and in adjourning in his honor today. **Legislative Citation No. 232** was adopted without objection.

Representative Gooch moved that the rules be suspended to withdraw Floor Amendment No. 3 to **SB 303**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Colter moved that she be recorded as voting "yea" on **SB 171** and **HR 136**. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn until 12 Noon, March 31, 1998.

The motion that the House adjourn until 12 Noon, March 31, 1998 was adopted by voice vote.

TUESDAY, MARCH 31, 1998

FIFTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gerald Roe, Calvary Baptist Church, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Horlander

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 30, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Message received on **SB 21**: The Senate has refused to concur in the House Committee Substitute and House Committee Amendment No. 1 and House Committee Amendment No. 2 Title to **SB 21** and respectfully returns it with the request that this Honorable Body recede from the House Committee Substitute and House Committee Amendments. (Time: 12:15 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 133, SB 145, SB 159, SB 168, SB 171, SB 197, SB 242, SB 300, SB 304, SB 343, SB 353, SB 357, SB 360,** and **SB 392** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -12:20 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 156**

Calendar

SB 387, SB 319 and **SB 368** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Stumbo moved the adoption of the following **Legislative Citation No. 239**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Legislative Research Commission Interns serving during the 1998 Regular Session of the Kentucky General Assembly, for exhibiting exceptional skill, knowledge and dedication in support of Kentucky's Legislature. These outstanding scholars from the Commonwealth's finest colleges and universities are commended for demonstrating excellence in the performance of their duties and enthusiasm in developing a thorough understanding of the legislative process. The members of this honorable body are delighted to join Representative Greg Stumbo in expressing deep appreciation to these fine young Kentuckians for their impressive contributions to this most worthwhile and complex process. **Legislative Citation No. 239** was adopted without objection.

Orders of the Day

HB 52, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 8 to **HB 52** is as follows:

On page 16, after line 24, by adding the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 70.260 to 70.273 IS CREATED TO READ AS FOLLOWS:

(1) When a county creates a deputy sheriff merit board, the board shall issue, and publish within forty-eight (48) hours after their adoption, rules that are not inconsistent with the provisions of KRS 70.260 to 70.273. The board shall provide a certified copy of the rules to:

(a) The sheriff of the county who shall additionally post a copy in a conspicuous place in the main office and in any branch offices where deputies are regularly assigned to work from;

(b) The county judge/executive of the county; and

(c) The legislative body of the county.

(2) The board shall, at a minimum, adopt a body of rules that addresses the following subjects:

(a) For deputy sheriffs:

1. Qualifications for initial and continued employment, which shall at a minimum include: citizenship, age, physical, mental, and educational requirements;

2. Grounds for temporary appointments;

3. Advancement requirements. Deputy sheriffs shall be employed for at least three (3) full years before being eligible for the rank of sergeant;

4. Factors that shall, or may, result in demotion, the procedures for determining whether or not to demote a deputy, and the procedures for executing a demotion;

5. Factors that shall, or may, result in fining, probation, suspension, or removal; and

6. Administrative procedures for the deputies in the office such as transfer, layoff, and reinstatement.

(b) For the general administration of the board itself:

1. Organizational structure and conduct of meetings;

2. Procedure and conduct of public hearings as a result of the board's actions; and

3. Implementation and execution of written and oral examinations, and physical tests of fitness for appointment and promotion of deputies.

(3) The subsequent issuance of additional rules, or of the repeal or amendment of existing rules shall follow the provisions indicated in subsection (1) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 70.260 to 70.273 IS CREATED TO READ AS FOLLOWS:

(1) Deputy sheriff merit boards shall employ a chief examiner who shall operate under the board's sole supervision.

(2) The board shall only employ a person for this position who is qualified and experienced in the field of testing.

(3) The examiner shall design, administer, and evaluate all written tests the board requires applicants for promotion to take for consideration for promotion. Each applicant for promotion shall be given an oral and written examination to determine the applicant's qualification for promotion.

(4) The examiner shall select a panel of three (3) persons to conduct the oral portion of the exam battery. The panel shall be selected from an agency other than the local sheriff's office, and the panel members shall be of at least the same rank to which the applicant aspires and of the same field.

(5) Unless the sheriff certifies that the applicant is not physically fit for promotion, physical fitness shall be presumed.

(6) (a) The composite score of the examination battery shall be calculated as follows:

1. Sixty-five percent (65%) for the written examination; and

2. Thirty-five percent (35%) for the oral examination.

(b) An applicant shall receive one (1) seniority point to be added to the composite score for each full year over three (3) full years of service. No applicant shall receive more than ten (10) seniority points. No applicant shall receive a seniority point for serving less than a full year.

(7) Testing and scoring methods shall not depart from, or be inconsistent with, those set out in this section.

(8) The chief examiner shall deliver the final scores of the applicants for promotion, in a manner that will ensure complete privacy and confidentiality of the applicants and their scores, directly to the chair of the board. The chief examiner shall not release this information to anyone but the chair of the board.

(9) Notice of the date, time, and place of examinations shall be given no later than ninety (90) days before the examination date.

(10) Promotions shall be filled by the sheriff from a list of no more than three (3) of the candidates who obtained the

highest combined scores on the written and oral examination, including any seniority points, and are physically fit to serve in the new capacity.".

The Senate Floor Amendment No. 7 Title to **HB 52** is as follows:

By amending the title to read as follows: "AN ACT relating to law enforcement and fire protection.".

Representative Thomas moved that the House concur in Senate Floor Amendment No. 8 to **HB 52**. Agreed.

Representative Thomas moved that **HB 52**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 31, 1998 roll call on **HB 52** - Appendix.) **HB 52**, as amended by the Senate, was passed. Representative Thomas moved that the House Concur in Senate Floor Amendment No. 7 Title to **HB 52**. Agreed; and the title was agreed to. Representative Thomas moved that the vote by which **HB 52**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

HB 78, HB 271, HB 274, HB 275, HB 447, HB 484, HB 552, HB 590, HB 611, HB 618, HB 625, HB 626, HB 630, HB 650, HB 690, HB 716, HB 724, HB 746, HB 754, HB 782, HB 880, HCR 7, HCR 15, HCR 16, HCR 17, HCR 18, HCR 20, HCR 94, HCR 97, HJR 98, HJR 109, HCR 113, HJR 115, HJR 116, HJR 118, and **HCR 119** delivered to the Senate and signed by the President. Delivered to the Governor on March 31 at 11:18 a.m.

Orders of the Day (Continued)

HB 187, with Senate Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 187** is as follows:

On page 1, line 7, By inserting after "***procedures.***" the following: "***No other information shall appear on the badge unless approved by the hospital chief executive officer, facility manager, or designee.***"

The Senate Floor Amendment No. 2 to **HB 187** is as follows:

On page 1, line 3 after "***(1)***" by inserting "***All employees of a hospital who are licensed, registered, certified, or otherwise regulated under the laws of the Commonwealth shall wear a badge or other insignia indicating the person is a licensed, registered, certified or otherwise regulated health care provider, provided the badge or insignia does not violate sterile procedures.***"

On page 1, line 3, by deleting "***(1)***" and inserting in lieu thereof "***(2)***"

On page 1, line 5, after "***insignia***" by deleting "***indicating that the***"

On page 1, by deleting line 6 in its entirety

On page 1, line 7, by deleting "***provider***"

On page 1, line 8 by deleting "***(2)***" and inserting in lieu thereof "***(3)***"

The Senate Floor Amendment No. 3 Title to **HB 187** is as follows:

By amending the title to read as follows: "AN ACT relating to hospital employees."

Representative Burch moved that the House concur in Senate Committee Amendment No. 1 to **HB 187**. Agreed. Representative Burch moved that the House concur in Senate Floor Amendment No. 2 to **HB 187**. Agreed.

Representative Burch moved that **HB 187**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 31, 1998 roll call on **HB 187** - Appendix.) **HB 187**, as amended by the Senate, was passed. Representative Burch moved that the House concur in Senate Floor Amendment No. 3 Title to **HB 187**. Agreed; and the title was agreed to. Representative Burch moved that the vote by which **HB 187**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 388** be assigned to Appropriations and Revenue. Agreed.

HB 438, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 438** is as follows:

On page 11, after line 4, by inserting the following:

"***(3)*** ***Months of service earned as a contract employee of the Kentucky Department of Education shall be recognized and credited as service credit for calculating years of service in any public agency position held subsequent to the employment by contract. The provisions of this subsection are retroactive for employees hired in a public agency position on or after January 1, 1997.***".

Representative Geveden moved that the House concur in Senate Committee Amendment No. 1 to **HB 438**. Agreed.

Representative Geveden moved that **HB 438**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 31, 1998 roll call on **HB 438** - Appendix.) **HB 438**, as amended by the Senate, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 438**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 671, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 671** is as follows:

AN ACT relating to planning commissions in counties with populations over three hundred thousand.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.137 is amended to read as follows:

(1) Counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; three (3) members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county, and the county road engineer. ***The county judge/executive and the mayor together shall ensure that three (3) of the six (6) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.***

(2) In counties containing a city of the first class, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court.

(3) In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

Representative DeWeese moved that the House concur in Senate Committee Substitute to **HB 671**. Agreed.

Representative DeWeese moved that **HB 671**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 671** - Appendix.) **HB 671**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 671**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 62, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 62** is as follows:

AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party ***on December 31 immediately preceding the primary***[~~at the time of the preceding regular~~] election, or, in the case of new registrations ***made after December 31 immediately preceding the primary***

election, he shall~~[not involving a change of political affiliation made after the preceding regular election,]~~ have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors ***seventeen (17) years of age*** who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.

Section 2. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party ***on December 31 immediately preceding the regular election for which the person seeks to be a candidate***~~[at the time of the last preceding regular election]~~. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 3. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, ***except in a year in which no primary and regular elections are scheduled,*** appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section.*** The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve,

has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) ***In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.***

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8)[~~(7)~~] The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(9)[~~(8)~~] An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for ***one (1) year***[~~two (2) years~~] prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10)[~~(9)~~] If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11)[~~(10)~~] Each election officer shall be paid a minimum of sixty dollars ($60) per ***election*** day ***served***, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the ***precinct election***[~~two (2)~~] judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the ***precinct election***[~~two (2)~~] judges for delivering election returns shall be paid by the county.

Section 4. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, disability or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for ***an***[~~a paper~~] absentee ballot containing a verified statement that his inability to appear is due to age, disability, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter ***an***[~~a paper~~] absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 5. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***an***[~~a paper~~] absentee ballot. The application shall state that the emergency condition occurred within the seven (7) day period and shall be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or children of the voter. If the voter has no spouse, parents or children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***an***[~~a paper~~] absentee ballot.

Section 6. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for an absentee ballot shall be transmitted only by mail or in person ***at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter***[~~as specifically provided by this section~~]. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted ***and persons who qualify under subparagraph 5. of paragraph (a) of this subsection***, no[~~ paper~~] absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***an***[~~a paper~~] absentee ballot as provided in this section and who is properly registered as stated in his application.

(a) The following voters may apply to cast their votes by[~~ paper~~] absentee ballot at any time not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by[~~ paper~~] absentee ballot pursuant to KRS 117.075[~~ or KRS 117.077~~];

2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;

3. Students who ***temporarily reside***[~~live~~] outside the county of their residence and other voters who ***temporarily reside***[~~live~~] outside the state but who are still eligible to vote in this state;[~~ and~~]

4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime***; and***

5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.

[~~Any other qualified voter in any county who is not permitted to vote by paper absentee ballot who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. Requests for an application for a paper absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for a paper absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a paper absentee ballot to a voter permitted to vote by paper absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The paper~~

~~absentee ballot application shall be restricted to use of the voter or the spouse, parents, or children of the voter.~~]

(b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for ***an***[~~a paper~~] absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for ***an***[~~a paper~~] absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.

(c) ***Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.***

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e)[~~(d)~~]The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

(f)[~~(e)~~] Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The clerk shall type the name of the voter permitted to vote by[~~paper~~] absentee ballot on the application form for that person's use and no other. The[~~paper~~] absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for ***an***[~~a paper~~] absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive ***an***[~~a paper~~] absentee ballot ***by mail***, he shall mail to the voter ***an***[~~a paper~~] absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) [~~Paper~~]Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and[~~paper~~] absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and ***fifteen (15)***[~~ten (10)~~] days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS

117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received ***an***[~~a paper~~] absentee ballot ***by mail*** but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his[~~ paper~~] absentee ballot and vote in person. He shall return his[~~ paper~~] absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the[~~ paper~~] absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent[~~ paper~~] absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 7. KRS 117.086 is amended to read as follows:

(1) The voter returning his[~~ paper~~] absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the[~~ paper~~] ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***an***[~~a paper~~] absentee ballot by mail under the provisions of KRS 117.085, and all members of county boards of elections and precinct election officers qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:

  (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.

  (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.

(3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6) The clerk shall deposit all of the[~~ returned paper~~] absentee ballots ***returned by mail*** in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their[~~ paper~~] absentee ballots ***by mail*** or cast their ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of votes cast by[~~ paper~~] absentee ballots ***returned by mail*** and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.

Section 8. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent or annual basis, any

person voting by means of ***an***[~~a paper~~] absentee ballot ***by mail*** or on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of ***an***[~~a paper~~] absentee ballot ***by mail*** or on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all[~~ paper~~] absentee ***ballot envelopes***[~~ballots~~] shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 9. KRS 117.087 is amended to read as follows:

(1) The challenge of ***an***[~~a paper~~] absentee ballot ***returned by mail*** shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the[~~ paper~~] absentee ballots ***returned by mail*** and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. The board may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the[~~ paper~~] absentee ballots ***returned by mail*** and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of the ballots. The board shall open the boxes containing[~~ paper~~] absentee ballots ***returned by mail*** and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned[~~ paper~~] absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter who cast ***an***[~~a paper~~] absentee ballot ***by mail*** is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the[~~ paper~~] absentee ballots in the box. The board shall open the ballot box, remove the[~~ paper~~] absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided for in KRS 117.086 and a total of all ballots shall be made and recorded on the form provided by the State Board of Elections.

(7) The county board of elections shall make public the ballot results determined as provided in this section after 6 p.m.

Section 10. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training ***before each primary and regular election*** to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;
(b) Posting of necessary signs and notices at the polling place;
(c) Voter assistance;
(d) Maintaining precinct rosters;
(e) Confirmation of a voter's identity;
(f) Challenge of a voter;
(g) Completing changes of address or name at the polling place;
(h) Qualifications for voting in a primary election;
(i) Electioneering and exit polling;
(j) Write-in voting procedures;
(k) Persons who may be in the voting room;
(l) Election violations and penalties;
(m) Assistance which may be provided by law enforcement officers; and
(n) Election reports.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ten dollars ($10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 11. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) ***Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form***~~[Voters who require assistance in voting on a permanent basis due to a permanent disability, or who require assistance in voting on an annual basis because of an inability to read English or because of a temporary disability, may apply to the county board of elections for certification of that need for voting assistance. Application may be made when registering to vote or at any time prior to the close of the voter registration books prior to an election by completing the voter assistance form indicating that the reason for obtaining assistance is permanent or temporary. The county board of elections shall determine whether the applicant requires voting assistance on a permanent or annual basis. The county board of elections shall notify the county clerk of a certification of a need for voting assistance and the county clerk shall enter the appropriate certification on the voter's registration record. The State Board of Elections shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance on a permanent or annual basis without completing voter assistance forms at the precinct on the day of an election]~~.

(3) ***Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter***~~[A voter who requires assistance in voting may be assisted by a person of his choice, except that the voter's employer, an agent of that employer, or an officer or agent of that voter's union shall not assist the voter. If a voter who requires assistance in voting does not bring someone to the polls to assist him in voting, assistance shall be rendered as follows:~~

~~(a) A voter who has been certified as requiring assistance on a permanent or annual basis may select a person at the polls to assist him in voting or, if the voter does not do so, the two (2) election judges shall assist the voter; and~~

~~(b) A voter who has not been certified as requiring assistance on a permanent or annual basis shall be assisted by the two (2) election judges]~~.

(4) ***The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs***~~[Except for those voters who have been certified as requiring assistance on a permanent or annual basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of an inability to read English, or by reason of disability he is unable to vote without assistance. The oath shall be upon a voter assistance form~~

~~prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form~~].

(5) *A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct*[~~Upon making and filing with the judges the oath, if required, the voter shall retire to the voting machine or area provided for completing a ballot, with the person who will assist him in voting, and the person providing assistance shall operate the machine or complete the ballot as the voter directs~~].

(6)[~~ The precinct election clerk shall swear the person accompanying a voter with a disability or a voter who is unable to read English to operate the voting machine in accordance with the directions of the voter and the person sworn shall enter the voting booth or ballot completion area and the one sworn shall operate the machine or complete the ballot for the voter as the voter directs.~~

~~(7)~~] "Voting booth" or "ballot completion area" *means*[~~ shall mean~~] an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.

(7)[~~(8)~~] No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8)[~~(9)~~] In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9)[~~(10)~~] If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10)[~~(11)~~] The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11)[~~(12)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12)[~~(13)~~] The election sheriff shall be responsible for reporting violations of this section.

Section 12. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot *for a regular or special election* may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) *A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.*

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5)[~~(4)~~] The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6)[~~(5)~~] Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

(7)[~~(6)~~] The provisions of this section requiring the filing of a declaration of intent shall not apply to elections for municipal office in cities of the fifth or sixth class, and all write-in votes shall be counted, regardless of whether a declaration was filed.

Section 13. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315 and 118.316, the chief state school officer shall fill the new term of office by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts***,***[~~ or~~] a change in territory due to annexation***, or to allow compliance with KRS 117.055(2)***.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the

county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

Section 14. The provisions of Section 1 of this Act shall be applied prospectively from the effective date of this Act. A voter who has changed political party affiliations on his voting registration record during the period beginning November 12, 1996, and ending at the close of business on the effective date of this Act shall be permitted to vote in the May, 1998 primary election for the political party with which the voter is affiliated on the effective date of this Act. A person who is not registered to vote on the effective date of this Act who completes a voter registration application during the period beginning with the effective date of this Act and ending at the close of business on April 27, 1998, shall be eligible to vote in the primary election to be held on May 26, 1998, if the person has registered as a member of a political party and has remained registered as a member of the same political party in whose primary election he seeks to vote since completing his voter registration application.

Section 15. Whereas the provisions of this Act are necessary to administer the May primary election in an effective and constitutional manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Representative P. Clark moved that the House concur in Senate Committee Substitute to **HB 62**. Agreed.

Representative P. Clark moved that **HB 62**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 31, 1998 roll call on **HB 62** - Appendix.) **HB 62**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 62**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 63, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 63** is as follows:

AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on

or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) ***Subject to the provisions of subsection (20) of this section,*** no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) ***A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with Section 3 of this Act.***

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(22)[~~(21)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23)[~~(22)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24)[~~(23)~~] In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25)[~~(24)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26)[~~(25)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than ***sixty (60)***[~~twenty (20)~~] days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than ***sixty (60)***[~~twenty (20)~~] days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27)[~~(26)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 2. KRS 121.170 is amended to read as follows:

(1) Any committee, except a federally-registered out-of-state permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127. No entity which is excluded from the definition of "campaign committee" established in KRS 121.015(3)(a) shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific

purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and KRS 121A.020(5).

(3) All provisions of KRS 121.160 and 121A.070 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser. ***In case of the death, resignation, or removal of a campaign treasurer for a permanent committee or executive committee, the chairman of the permanent committee or executive committee shall, within three (3) days after receiving notice of the vacancy by certified mail, appoint a successor as treasurer for the committee and file the name and address of the successor with the registry. The chairman of the permanent committee or executive committee shall be accountable as the treasurer for the committee if the chairman fails to meet this filing requirement.***

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(7) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 3. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) ***A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.***

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l)[~~(k)~~] 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b),[~~ or~~] (e)***, or (j)*** of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b),[~~ or~~] (e)***, or (j)*** of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) ***(a)*** State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1.[~~(a)~~] For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2.[~~(b)~~] For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3.[~~(c)~~] The total amount of cash contributions received during the reporting period; and

4.[~~(d)~~] A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) This report shall be ***in the hands of the registry or postmarked within five (5) days after the thirtieth day following***[~~made to the registry within thirty (30) days after~~] the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be ***in the hands of the registry or postmarked within five (5) days after the thirtieth day following***[~~submitted within thirty (30) days after~~] each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from

reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
4. The total amount of cash contributions received during the reporting period; and
5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered

fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in

whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry***:*** a copy of the material or communication purchased which supports or opposes any slate of candidates or committee ***except for advertising which is purchased by the slate of candidates or committee which may be identified by title only from the copy of the advertisement that the slate is required to file with the registry;*** a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser. ***If the purchaser is not a slate or agent of the slate, the provider of advertising services may require the purchaser to furnish an additional copy of the printed advertisement or broadcast material, either a script or tape, for the provider to file with the registry.*** All information shall be reported to the registry on the thirtieth day preceding and the thirtieth day following the primary***, runoff primary,*** and regular elections subsequent to the date that the broadcasting or printing of the advertisement occurs. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor. Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 4. KRS 121A.060 is amended to read as follows:

(1) The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5). A qualifying slate which discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors. The excess contributions returned to the contributors shall not be considered as qualifying contributions and shall not be matched by transfers from the fund. ***After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers,*** the threshold qualifying amounts shall be increased or decreased ***accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The***[~~in accordance with the consumer price index for all urban workers, and the~~] registry shall make ***the adjustments in the threshold qualifying amounts***[~~that adjustment~~] in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and

(d) Any other information reasonably necessary that is required by the registry.

(4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.

(5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(6) A separate determination and certification shall be made for a primary and a regular election.

(7) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(13) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 63** is as follows:

On page 28, after line 7, by inserting the following:

"Section 5. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use such funds other than in support of the party's candidates in a general election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each general election, forward to the Registry of Election Finance a report of:

(a) The unexpended and unobligated balance of such remitted funds; and

(b) An itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of fifty dollars ($50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance ***may***~~[shall]~~ annually audit the accounts and records of receipts and expenditures of funds ***in the amount of one thousand five hundred dollars ($1,500) or less that are*** remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073***. The registry***~~[and]~~ shall ***annually audit the accounts and records of receipts and expenditures of funds in the amount of more than one thousand five hundred dollars ($1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall*** report the results of each audit ***conducted*** to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.".

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 63** is as follows:

On page 24, line 4, before "(11)" by inserting an opening bracket and striking through all numbering and language on that line; and

On page 24, by striking through all language on lines 5 to 7; and

On page 24, line 8, by deleting "***:***" and by striking through all other language on that line; and

On page 24, line 9, by striking through "supports or opposes any slate of candidates or committee" and by deleting "***except for advertising***"; and

On page 24, lines 10 and 11, by deleting all language on those lines; and

On page 24, line 12, by deleting "***required to file with the registry***" and by striking through all punctuation and language that remains on that line; and

On page 24, line 13, by striking through all language on that line; and

On page 24, line 14, by striking through "different than the purchaser." and by deleting the remaining language on that line; and

On page 24, lines 15 and 16, by deleting all language on those lines; and

On page 24, line 17, by deleting "***or tape, for the provider to file with the registry.***" and by striking through "All information shall be reported"; and

On page 24, line 18, by striking through all language on that line; and

On page 24, line 19, by deleting "***, runoff primary,***" and by striking through all language that remains on that line; and

On page 24, lines 20 to 24, by striking through all language on those lines; and

On page 24, line 25, by striking through and placing a closing bracket after "KRS 121.140(2).".

Representative Maricle moved that the House concur in the Senate Committee Substitute to **HB 63**. Agreed. Representative Maricle moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed. Representative Maricle moved that the House refuse to concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute. Agreed

HB 455, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 455** is as follows:

AN ACT relating to criminal justice matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.

(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department of Social Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.

(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

(a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the

school system, the Department of Juvenile Justice, the Department for Social Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;

(b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;

(c) Sharing of information as authorized by law to carry out the interagency agreements;

(d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and

(e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.

(4) Training of council members shall be the responsibility of the department.

(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.

(6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:

(a) The formation of councils;

(b) The operation of councils;

(c) The duties of councils; and

(d) The administration and operation of the grant program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:

(a) The operation of pre-adjudication detention facilities for children charged with public offenses; and

(b) The operation of post-adjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.

(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to detention that shall provide for:

(a) The operation of or contracting for the operation of pre-adjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs; and

(b) The operation of or contracting for the operation of post-adjudication alternatives to detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.

(3) The department shall, except as provided in Section 6 of this Act, charge counties and urban-county governments a per diem not to exceed ninety-four dollars ($94) for lodging juveniles in state-owned or contracted pre-adjudication facilities.

(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.

(5) The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:

(a) Administration;

(b) Intake and classification;

(c) Programs and services;

(d) Record-keeping;

(e) Rules and discipline;

(f) Transfers;

(g) Reimbursement rates and conditions; and

(h) Detention facility rate increases.

(6) No juvenile detention facility or juvenile holding facility shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the

facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.

Section 3. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent, or adjudicated delinquent.

(2) There is established within the Department of Juvenile Justice, a Division of Educational Services, that shall be responsible for the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.

(3) ***Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.***

(4) The Division of Educational Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

(a) For students identified before incarceration as having an educational disability, the Division of Educational Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

(b) For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

(c) For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(5)[~~(4)~~] The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(6)[~~(5)~~] The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Educational Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(7)[~~(6)~~] (a) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

(b) Within five (5) days after the juvenile is released, the Division of Educational Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(8)[~~(7)~~] The Department of Juvenile Justice shall***, after consultation***[~~collaborate~~] with the Department of Education***,*** ***promulgate***[~~as it promulgates~~] an administrative regulation for the effective implementation of this section.

[~~(8) The Department of Education shall administer this program in cooperation with the Justice Cabinet for the 1996-97 fiscal year. Effective July 1, 1997, the Justice Cabinet shall be responsible for the implementation of this section.~~]

Section 4. KRS 610.265 is amended to read as follows:

(1) Any child who is accused of committing a status or public offense or of being in contempt of court may be detained in a secure juvenile detention facility or juvenile holding facility or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays.

(2) (a) Within twenty-four (24) hours of the start of the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders the child detained further, ***and if the child is charged with a capital offense, Class A felony, or Class B felony,***[~~such~~] detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance. ***Any other child, ordered to be detained in a state-operated facility pursuant to the statewide***

detention plan, shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained.

(c) If the child is not released, the court designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian or other responsible adult.

Section 5. KRS 610.280 is amended to read as follows:

(1) (a) If a child is detained pursuant to KRS 610.265 for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility, then a hearing shall be held as soon as practical, but not to exceed forty-eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case; and

(b) In determining detention, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child. ***Any child, ordered to be detained in a state-operated facility pursuant to the statewide detention plan, shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained.***

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 6. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child on probation, home incarceration, or under supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine. A child placed on probation, home incarceration, or supervision shall be subject to the visitation and supervision of a ***probation officer or an employee***[~~juvenile probation officer~~] of the Department of Juvenile Justice. Except as provided in KRS 635.083, a child placed on probation, home incarceration, or supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation, home incarceration, or supervision after the person reaches the age of seventeen (17) years and six (6) months, the probation, home incarceration, or supervision shall be for a period not to exceed one (1) year; or

(3) Commit ***or recommit*** the child to the custody or guardianship of the Department of Juvenile Justice, a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility, juvenile holding facility, or intermittent holding facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed ***or recommitted*** to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement ***as soon as possible but not to exceed thirty-five (35)***[~~within seven (7)~~] days of the time of commitment ***or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention***

facility and placed. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to ***KRS 635.070 and to*** the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) [~~Effective July 1, 1997, ~~]If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility***,***[~~ or~~] juvenile holding facility***, or approved detention program as authorized by the Department of Juvenile Justice*** in accordance with KRS ***Chapter*** 15A[~~.200~~] for a period of time not to exceed forty-five (45) days; or

(5) [~~Effective July 1, 1997, ~~]If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility***,***[~~ or~~] juvenile holding facility***, or approved detention program as authorized by the Department of Juvenile Justice*** in accordance with KRS ***Chapter*** 15A[~~.200~~] for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsections (4) or (5) of this section ***in accordance with the statewide detention plan and administrative regulations implementing the plan***.[~~ The requirement that the Department of Juvenile Justice pay for confinement of persons confined pursuant to subsections (4) and (5) of this section shall apply only to juveniles confined on or after July 1, 1997.~~]

SECTION 7. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Juvenile Justice, the Cabinet for Human Resources, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440; and

(3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the Kentucky State Police, the Department of Corrections, the Cabinet for Human Resources, and the Administrative Office of the Courts to its database.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Department of Juvenile Justice shall update its database within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender records;

(2) Institutional records; and

(3) Administrative records.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall update its database within thirty (30) days of receipt of information. The update shall include information from:

(1) Offender records;

(2) Institutional records; and

(3) Administrative records.

SECTION 10. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:

(a) All sheriff's offices, police departments, and any other law enforcement agency;

(b) All Commonwealth's attorneys and county attorneys;

(c) The Attorney General;

(d) All jails and juvenile detention facilities, public and private;

(e) All courts and clerks of courts;

(f) The Administrative Office of the Courts;

(g) All departments within the Justice Cabinet; and

(h) All departments within the Cabinet for Human Resources.

(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.

(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:

(a) Access or other restrictions imposed by federal or state law;

(b) All confidentiality restrictions imposed by federal or state law; and

(c) All disclosure and redisclosure restrictions imposed by federal or state law.

(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.

(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 11. KRS 7.111 is amended to read as follows:

(1) The Kentucky State Police, Department of Corrections, ***the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Administrative Office of the Courts shall provide access to their databases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete, or alter data without permission of the agency holding the data.

(2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.

(3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.

(4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:

(a) Access shall not include information on federal offenses or convictions;

(b) Access shall not include information on out-of-state convictions; and

(c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the Commission.

Section 12. KRS 17.151 is amended to read as follows:

The Kentucky State Police shall, in cooperation with the Administrative Office of the Courts***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Kentucky State Police shall provide access to the Administrative Office of the Courts***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections to its database; and

(3) The Kentucky State Police***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 13. KRS 17.152 is amended to read as follows:

All data supplied to the centralized criminal history record information system by the Kentucky State Police, Administrative Office of the Courts, ***the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 14. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Human Resources; Transportation Cabinet;

Department of Corrections; ***Department of Juvenile Justice;*** and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal his or his parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

SECTION 15. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The Department of Juvenile Justice shall have access to all court records, active and closed, relating to or in the custody of the juvenile session of the District Court or the Administrative Office of the Courts, or both.

Section 16. KRS 27A.300 is amended to read as follows:

The Administrative Office of the Courts shall, in cooperation with the Kentucky State Police***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;

(2) The Administrative Office of the Courts shall provide access to the Kentucky State Police***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Department of Corrections to its database; and

(3) The Administrative Office of the Courts shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database.

Section 17. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all state supported postsecondary educational institutions in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential and shall not require a student's Social Security number to identify the student, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency***, the Department of Juvenile Justice,*** and any court of law upon ***written*** request[~~ or issuance of a subpoena~~].

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on Postsecondary Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all public postsecondary educational institutions in Kentucky.

SECTION 18. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police, shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.

(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.

(3) The Cabinet for Human Resources shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

Section 19. KRS 196.093 is amended to read as follows:

The Department of Corrections shall, in cooperation with the Kentucky State Police***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Department of Corrections shall provide access to the Kentucky State Police***, the Department of Juvenile Justice, the Cabinet for Human Resources,*** and the Administrative Office of the Courts to its database; and

(3) The Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 20. KRS 605.090 is amended to read as follows:

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a family service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that***:*** No child committed under the provisions of KRS 610.010(1)(b), (c), or (d) ***shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;***

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) ***No***[~~or any~~] child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

(3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of his parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the family service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(4)[~~(3)~~] The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(5)[~~(4)~~] The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(6)[~~(5)~~] The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 21. KRS 610.110 is amended to read as follows:

(1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.

(2) At the disposition, all information helpful in making a proper disposition, including oral and written reports, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.

(3) The court shall***, and the Department of Juvenile Justice may upon request,*** notify the law enforcement agency of the child's ***city,*** county***, or urban-county*** of residence ***as appropriate*** and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the Department of Juvenile Justice or the cabinet.

(4) If any court commits a child to the Department of Juvenile Justice or the cabinet, a child-caring facility, or child-placing agency, the court shall cause to be transmitted to the Department of Juvenile Justice or the cabinet, facility, or agency, as appropriate, a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority of the Department of Juvenile Justice or the cabinet, facility, or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him to such a place as shall be directed by the Department of Juvenile Justice or the cabinet, facility, or agency given custody of him in the order.

(5) In placing a child on probation in a home or boarding home, or in committing a child to a child-caring facility or child-placing agency, the court shall as far as practicable select a home, facility, or agency operated or governed by persons of a similar religious faith as the parents of the child.

(6) Upon motion of the child and agreement of the Department of Juvenile Justice or the cabinet, as appropriate, the court may authorize an extension of commitment up to age twenty-one (21) for the purpose of permitting the Department of Juvenile Justice or the cabinet, as appropriate, to assist the child in establishing independent living arrangements if a return to the child's home is not in his best interest.

Section 22. KRS 610.320 is amended to read as follows:

(1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

(2) No probation officer, nor employee of a probation officer, shall, without the consent of the District Judge sitting in juvenile session, divulge or communicate to any persons other than the court, ***law enforcement, the Department of Juvenile Justice,*** an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the District Judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, or to another probation officer having a direct interest in the record or social history of the child.

(3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited. Otherwise, the law enforcement records shall be made available to the child, family, guardian, or legal representative of the child involved. The records shall also be made available to the court, probation officers, ***prosecutors, the Department of Juvenile Justice, and law enforcement agencies*** or representatives of the cabinet. Records, limited to the child's adjudication of delinquency, and disposition of a criminal activity covered by KRS 610.345, shall also be made available to public or private elementary and secondary school administrative and counseling personnel, and to any teacher to whose class the student has been assigned for instruction, subject to the provisions of KRS 610.340 and 610.345.

(4) Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense which

would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial. However, the fact that a juvenile has been adjudicated delinquent of an offense which would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication.

(5) This section shall not relieve the probation officer or peace officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.

(6) This section shall not prohibit release of information regarding juvenile proceedings in the District Court which do not reveal the identity of the child or its parents or guardians, or which relate to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court.

Section 23. KRS 610.340 is amended to read as follows:

(1) ***(a)*** Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent,~~[and to the extent necessary at the proceeding to]~~ victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.

(b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

(c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

(d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to the effective date of this Act.

(2) The provisions of this section shall not apply to public officers or employees engaged ***in the investigation of and*** in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes~~[provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the prosecution of the case]~~.

(3) The provisions of this section shall not apply to employees of the ***Department of Juvenile Justice or*** cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes~~[provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the representation of the client in the case]~~.

(4) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative and counseling personnel, to any teacher ***or school employee with whom the student may come in contact***~~[to whose class the student has been assigned for instruction]~~, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.

(5) No person, including school personnel, shall disclose any record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.

(6) No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

(7) No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.

(8) No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.

(9) As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

Section 24. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the department from the conduct of the prisoner. In addition, the department shall provide an educational good time credit of sixty (60) days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, or a two (2) year or four (4) year certification in applied sciences, or who receives a technical education diploma as provided and defined by the department; prisoners may earn additional credit for each program completed. The department may forfeit any good time previously earned by the prisoner, or deny the prisoner the right to earn good time in any amount, if, during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the commissioner, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

(4) *Until successful completion of the sex offender treatment program, a sex offender may earn good time. However, the good time shall not be credited to the sex offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all good time earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, a sex offender may continue to earn good time in the manner provided by administrative regulations promulgated by the Department of Corrections. Any sex offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his sentence. A sex offender who does not complete the sex offender treatment program for any reason shall serve his entire sentence without benefit of good time, parole, or other form of early release. The provisions of this section shall not apply to any sex offender convicted before the effective date of this section or to any mentally retarded sex offender.*

(5) (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of good time and the ability to earn good time in the future for those inmates who have civil actions dismissed because the court found the action to be malicious or harassing, or if satisfied that the action is legally without merit or factually frivolous.

(b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of good time forfeited as well as any prohibition imposed on the future earning of good time.

SECTION 25. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, 530.020, 530.064, or 531.310 shall be sentenced to a period of conditional discharge following release from:

(a) Incarceration upon expiration of sentence; or

(b) Completion of parole.

(2) The period of conditional discharge shall be three (3) years.

(3) During the period of conditional discharge, the defendant shall:

(a) Be subject to all orders specified by the Department of Corrections; and

(b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.

(4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.

(5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant for no longer than the time remaining on the conditional discharge.

(6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after the effective date of this Act.

Section 26. KRS 15A.030 is amended to read as follows:

The Justice Cabinet, in addition to the departments set forth in KRS 15A.020, shall consist of the following organizational units which are hereby created or reestablished:

(1) Office of secretary of justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, and the ***Criminal Justice Council***[~~Kentucky Crime Commission~~]. The Parole Board shall be attached to the Office of the Secretary for administrative ***and support*** purposes only.

(2) Offices of deputy secretaries of justice.

(3) Office of the general counsel.

(4) Medical examiner service program.

Section 27. KRS 15A.040 is amended to read as follows:

(1) The ***Criminal Justice Council***[~~Kentucky Crime Commission~~] shall advise and recommend to the ***Governor and the General Assembly***[~~secretary~~] policies and direction for[~~ departmental~~] long-range planning regarding all elements of the criminal justice system. ***The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:***

(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) Conduct comprehensive planning to promote the maximum benefits of grants;

(c) Develop model criminal justice programs;

(d) Disseminate information on criminal justice issues and crime trends;

(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

(g) Provide technical assistance to all criminal justice agencies; and

(h) Review and evaluate proposed legislation affecting criminal justice[~~and shall exercise supervisory authority with respect to federal and state grants as required by federal or state law~~].

(2) [~~Total~~]Membership of the ***Criminal Justice Council shall consist of the following:***

(a) The secretary of the Justice Cabinet or his designee;

(b) The director of the Administrative Office of the Courts or his designee;

(c) The Attorney General or his designee;

(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

(e) Two (2) members of the Senate as designated by the President of the Senate;

(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

(i) The public advocate or his designee;

(j) The president of the Kentucky Sheriffs Association;

(k) The commissioner of state police or his designee;

(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

(m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailer's Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerk's Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Court Judge, designated by the Chief Justice;

(u) One (1) Circuit Court Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders; and

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor~~[Kentucky Crime Commission and the appointment of members thereto shall be determined and made by the Governor]~~.

(3) The secretary of justice shall serve ex officio as chairman of the *council*~~[commission]~~. *Each member of the council shall have one (1) vote.* Members of the *council*~~[commission]~~ shall serve without compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

SECTION 28. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set out in KRS 61.940 to 61.953 are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Human Resources, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the uniform criminal justice information system committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored

in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

SECTION 29. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky State Police shall design, implement, and maintain an automated fingerprint identification system.

(2) The automated fingerprint identification system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.

(3) The Commonwealth shall provide and maintain in every detention center the automated fingerprint identification system equipment and programs required by the Kentucky State Police through administrative regulation.

SECTION 30. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) All persons arrested or detained in any adult or juvenile detention facility shall be fingerprinted.

(2) The jailer may fingerprint persons for other law enforcement agencies.

(3) The jailer shall submit the fingerprints to the Kentucky State Police in the manner and at the time required by the Kentucky State Police through administrative regulation.

Section 31. KRS 610.300 is amended to read as follows:

(1) Physical evidence shall be obtained and utilized in the investigation of public offenses involving children in the same manner as it is obtained and utilized in the investigation of public offenses involving adults.

(2) ***Except for fingerprint records,*** all records and physical evidence so obtained shall be surrendered to the court upon motion for good cause shown[~~ or upon elimination of the child as a suspect in the case~~]. ***All records, including fingerprint records, shall be subject to expungement in the manner provided in KRS 431.076 for circumstances specified therein.***

(3) The court shall, upon receipt of physical evidence, return any evidence, which is not contraband and is not needed for further prosecution, to its lawful owner. ***The fingerprint cards created pursuant to KRS Chapters 600 to 645 shall be transferred pursuant to KRS 17.110.***

Section 32. KRS 431.520 is amended to read as follows:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines, in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond:

    (a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant and his financial and employment circumstances; or

(b) With the 10% deposit as provided in KRS 431.530; or

(c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;

(4) ***If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;***

(5) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

(6)[~~(5)~~] A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;

(7)[~~(6)~~] A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release, shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

(8)[~~(7)~~] If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant, (b) enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed, or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

Section 33. KRS 431.525 is amended to read as follows:

(1) The amount of the bail shall be:

(a) Sufficient to insure compliance with the conditions of release set by the court;

(b) Not oppressive;

(c) Commensurate with the nature of the offense charged;

(d) Considerate of the past criminal acts and the reasonably anticipated conduct of the defendant if released; and

(e) Considerate of the financial ability of the defendant.

(2) When a person is charged with an offense punishable by fine only***,*** the amount of the bail bond set shall not exceed the amount of the maximum penalty and costs***.***[~~;~~]

(3) When a person has been convicted of an offense and only a fine has been imposed***,*** the amount of the bail shall not exceed double the amount of the fine.

(4) The Administrative Office of the Courts shall establish pilot projects to implement controlled substance or alcohol abuse testing as specified under this subsection. If the person's record indicates a history of controlled substance or alcohol abuse, the court may order the person to submit to periodic testing for use of controlled substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. If the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the person and his surety or sureties for the amount of the bail bond or any portion thereof and the cost of the proceedings.

SECTION 34. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) The council shall direct the design of an automated warrant system.

(2) The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.

Section 35. KRS 30A.080 is amended to read as follows:

(1) Every clerk shall maintain ***all***[~~such~~] records, files, dockets***,*** and indexes as are prescribed by statute or rule.

(2) All necessary record books and all necessary supplies required by the clerk's office shall be procured through the Administrative Office of the Courts and paid for by the Court of Justice.

(3) No clerk shall permit the records or papers of his office to be taken out of his office except in case of invasion or insurrection, or other catastrophe, or pursuant to rule or order of court, and then he shall cause them to be returned as soon as the necessity for the removal ceases to exist.

(4) Records may be permanently transferred from the clerk's office by rule or order of the Supreme Court.

Section 36. KRS 346.030 is amended to read as follows:

(1) There is hereby created a board, to be known as the Crime Victims Compensation Board. ***The***[~~Such~~] board shall consist of five (5) members not all of whom shall be engaged in the same occupation or profession***, at least one (1) of whom shall be a victim as defined in KRS 421.500(1) or a victim advocate as defined in KRS 421.570(1),*** and the[~~ said~~] board shall be appointed by the Governor.

(2) The term of office of each such member shall be four (4) years, except that of the members first appointed two (2) shall serve for terms of four (4) years, two (2) shall serve for terms of three (3) years and one (1) shall serve for a term of two (2) years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(3) The Governor shall designate one (1) member of the board as chairman thereof, to serve as such at the pleasure of the Governor.

(4) The Governor shall establish the compensation of the members of the board pursuant to the provisions of KRS 64.640.

(5) Each new board member shall receive training on the dynamics of domestic violence, child abuse, sexual assault, homicide, and other violent crimes and the criminal justice process.

Section 37. KRS 346.060 is amended to read as follows:

(1) A claim form may be filed by a person eligible to receive an award, as provided in KRS 346.050, or, if such person is a minor, by his parent or guardian.

(2) A claim form must be filed by the claimant not later than ***five (5) years***[~~one (1) year~~] after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than ***five (5) years***[~~one (1) year~~] after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing if, in a particular case, the interest of justice so requires.

(3) Claims shall be filed in the office of the board in person or by mail. Only printed claim forms supplied by the board shall be accepted. The board shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the board.

(4) Upon filing of a claim pursuant to this chapter, the board shall promptly notify the United States attorney (if a federal offense is involved), the Commonwealth's attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, Commonwealth's attorney or county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this chapter until such time as such criminal prosecution has been concluded and shall so notify such United States attorney, Commonwealth's or county attorney, and the claimant. When such criminal prosecution has been concluded such United States attorney, Commonwealth's or county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to KRS 346.120.

Section 38. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:
   (a) Criminally injurious conduct occurred;
   (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
   (c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time.[~~ A six (6) months' progress report will also be required by the board.~~] The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were broken or damaged during the crime.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed ***five thousand***[~~thirty-five hundred~~] dollars ***($5,000)***[~~($3,500)~~].

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000).

(7) No award shall be made for any type of property loss or damage.

SECTION 39. A NEW SECTION OF KRS 421.500 TO 421.575 IS CREATED TO READ AS FOLLOWS:

(1) In order to establish the minimum conduct of criminal justice professionals with respect to crime victims and to communicate the intent of the General Assembly that victims of crime play an integral role in the criminal justice process, KRS 421.500 to 421.575 is hereby named the Kentucky Crime Victim Bill of Rights.

(2) The rights established by KRS 421.500 to 421.575 shall apply in all felony and misdemeanor proceedings in a District or Circuit Court of the Commonwealth.

(3) Nothing in KRS 421.500 to 421.575 shall provide grounds for the victim to challenge a charging decision or a conviction, to obtain a stay of trial, or to compel a new trial. Law enforcement agencies, county attorneys, and Commonwealth's attorneys and courts shall make every reasonable effort to ensure that victims of crime receive the benefits of the rights set out in KRS 421.500 to 421.575.

Section 40. KRS 421.500 is amended to read as follows:

(1) As used in KRS ***421.500 to 421.575***[~~421.510 to 421.550~~], "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as ***stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness,*** criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate. If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS ***421.500 to 421.575***[~~421.510 to 421.540~~]:

(a) The spouse;
(b) An adult child if paragraph (a) of this subsection does not apply;
(c) A parent if paragraphs (a) and (b) of this subsection do not apply;
(d) A sibling if paragraphs (a) through (c) of this subsection do not apply; and
(e) A grandparent if paragraphs (a) through (d) of this subsection do not apply.

(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS ***421.500 to 421.575***[~~421.510 to 421.540~~]. Communication between the victim and the special advocate shall be privileged.

(3) Law enforcement personnel shall ensure that victims receive information on available ***protective,*** emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:

(a) Availability of crime victim compensation where applicable;
(b) Community based treatment programs;

(c) The criminal justice process as it involves the participation of the victim or witness;

(d) The arrest of the accused; and

(e) How to ***register to be notified when***[~~find out if~~] a person has been released from ***prison,*** jail***,***[~~ or~~] a juvenile detention facility***, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A***.

(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040, 524.045 or 524.055.

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:

(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including the defendant's release on bond ***and any special conditions of release***; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and

(c) The victim knows how to ***register to be notified when***[~~find out if~~] a person has been released from ***a prison,*** jail***,***[~~ or~~] a juvenile detention facility***, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;***

(d) The victim receives information on available:

1. Protective, emergency, social, and medical services;

2. Crime victim compensation, where applicable;

3. Restitution, where applicable;

4. Assistance from a victim advocate; and

5. Community-based treatment programs; and

(e) The victim of crime may pursuant to Section 50 of this Act receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.

(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, ***any conditions of release,*** a negotiated plea, and entry into a pretrial diversion program.

(7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.

(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.

(9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.

(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

Section 41. KRS 421.510 is amended to read as follows:

(1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, ***530.064***[~~530.065~~], 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.

(2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date.

(3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

Section 42. KRS 346.185 is amended to read as follows:

(1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board. In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of ***twenty***[~~ten~~] dollars ***($20)***[~~($10)~~]. This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the Crime Victims' Compensation Board.

(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the State of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

Section 43. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***seventy-five***[~~fifty-five~~] dollars ***($75), which shall include the fee mandated in KRS 346.185***[~~($55)~~].

(2) ***Except as provided in KRS 346.185,*** taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court.

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a) Preparing a certification $1.00

(b) Preparing a copy of a document (per page) . $0.15

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

SECTION 44. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Court shall collect the crime victim compensation fee specified in KRS 346.185 when court costs are collected. The fee shall be forwarded by the Circuit Clerk to the State Treasurer at the time costs are transferred to the State Treasurer.

(2) The collection of crime victim compensation fees shall be accounted for as a separate item to the State Treasurer and the Administrative Office of the Courts.

SECTION 45. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and Sections 46, 47, 48, and 49 of this Act in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.

(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.

(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.

(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.

SECTION 46. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

When a judge orders restitution, the judge shall:

(1) Order the restitution to be paid to a specific person or organization through the circuit clerk, who shall disburse the moneys as ordered by the court;

(2) Be responsible for overseeing the collection of restitution;

(3) Set the amount of restitution to be paid;

(4) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;

(5) Monitor the payment of the restitution to assure that payment is being made;

(6) If restitution is not being paid as ordered, hold a hearing to determine why the restitution is not being paid;

(7) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and

(8) Not release the defendant from probation supervision until restitution has been paid in full and all other aspects of the probation order have been successfully completed.

SECTION 47. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) When there is an identified victim of a defendant's crime to whom restitution has been ordered but not yet paid in full, or restitution has been ordered paid to a government agency and has not yet been paid in full, the Parole Board shall order the defendant to pay restitution as a condition of parole.

(2) When the Parole Board orders restitution, the board shall:

(a) Order the restitution to be paid to a specific person or organization through the Division of Probation and Parole, which shall disburse the moneys as ordered by the board;

(b) The Division of Probation and Parole shall be responsible for overseeing the collection of the restitution;

(c) Set the amount of restitution to be paid, if not already set;

(d) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;

(e) Monitor the payment of the restitution to assure that payment is being made;

(f) If restitution is not being paid as ordered, institute parole violation proceedings to determine why the restitution is not being paid;

(g) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and

(h) Not release the defendant from parole supervision until restitution has been paid in full.

(3) The board, in addition to any other sanctions which may be imposed on the defendant, ask a court to hold a defendant who is not paying restitution in the manner or amount prescribed in contempt of court.

(4) Any statute relating to the length of parole supervision notwithstanding, the parole for a person owing restitution shall be until the restitution is paid in full, even if this would lengthen the period of supervision beyond the statutory limit of parole supervision or the statutory limit for serving out the sentence imposed.

(5) Payment of restitution in full prior to the end of the period of parole supervision shall not shorten the period of parole supervision.

Section 48. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.

(3) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(4) The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and

at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years***, or the time necessary to complete restitution, whichever is longer,*** upon conviction of a felony nor two (2) years***, or the time necessary to complete restitution, whichever is longer,*** upon conviction of a misdemeanor. Upon completion of the probationary period, probation with an alternative sentence, or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation, probation with an alternative sentence, or conditional discharge has not been revoked.

(5) Notwithstanding the fact that a sentence to probation, probation with an alternative sentence, or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 49. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a)[~~ Restitution by payment may be ordered in a lump sum or in specified payments;~~

~~(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered~~

~~by the court;~~

~~(c)~~] Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

[~~(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;~~]

(b)[~~(e)~~]The circuit clerk shall assess an additional fee of ***five***[~~two~~] percent ***(5%)***[~~(2%)~~] to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to ***a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk and office personnel salaries, or combination thereof***[~~the general fund of the State Treasury~~];

(c)[~~(f)~~] When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court.[~~ The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation~~]; and

(d)[~~(g)~~] An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed ***twelve (12)***[~~six (6)~~] months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

SECTION 50. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General shall develop and administer a program for the protection of crime victims and witnesses and their immediate families.

(2) Within the limits of the administrative regulations, guidelines, and appropriations for this purpose, the program shall provide funding to the State Police or to a sheriff's office or city or county police department agreeing to provide protection to crime victims and witnesses and their families.

(3) Any Commonwealth's attorney or county attorney may apply to the Attorney General for funding for protection of crime victims, witnesses, and their families.

(4) No protective service shall be rendered to the same person for more than six (6) months.

(5) Protective services funded by this program shall be limited to:

(a) Physical protection of the person;

(b) Physical security measures for the person's residence, vehicle, workplace, or combination thereof; or

(c) Short-term relocation.

(6) The Attorney General shall promulgate administrative regulations under KRS Chapter 13A for the operation of the program.

(7) Nothing in this statute shall be construed to create a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.

(8) No court shall order a law enforcement agency to protect crime victim witnesses or their immediate families.

(9) No record that may lead to the identity of a person seeking or given protection under this section shall be an open record. This protection shall extend even to the question of whether such a record exists.

SECTION 51. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of ethnic intimidation who intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, violates a provision of any one (1) of the following:

- ***(a) KRS 508.010, 508.020, or 508.025;***
- ***(b) KRS 508.050 or 508.060;***
- ***(c) KRS 508.100 or 508.110;***
- ***(d) KRS 509.020;***
- ***(e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or 510.110;***
- ***(f) KRS 512.020, 512.050, or 512.060;***
- ***(g) KRS 513.020, 513.030, or 513.040; or***
- ***(h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.***

(2) Unless the underlying offense is a Class A felony, the range of punishment for the crime of ethnic intimidation shall be determined by the underlying statutory violation referenced in subsection (1) of this section, with the punishment being set at one (1) degree higher than that for the underlying statutory violation. If the underlying offense is a Class A felony, the punishment shall be the same as that for a Class A felony.

SECTION 52. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of institutional vandalism when he, because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, knowingly vandalizes, defaces, damages, or desecrates objects defined in KRS 525.110.

(2) Institutional vandalism is a Class D felony.

SECTION 53. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

A person who suffers personal injury as a result of conduct in violation of Section 51 of this Act is a victim of criminally injurious conduct as defined in KRS 346.020 and is eligible for awards pursuant to KRS Chapter 346.

SECTION 54. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of filing an illegal lien when he files a document or lien that he knows or should have known was forged, groundless, contained a material misstatement, or was a false claim. It shall be an affirmative defense that any material misstatement was not intentional.

(2) Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense.

Section 55. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county,[~~ or any~~] combination of cities and counties, ***state or public university, or county sheriff's office*** of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county***, urban-county*** or city government***, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer*** who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any ***sheriff who earns the maximum constitutional salary for this office, any special***[~~elected officer, sheriff,~~] deputy sheriff ***appointed under KRS 70.045***, ***any*** constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 56. KRS 15.460 is amended to read as follows:

(1) Beginning ***on the effective date of this Act***[~~July 1, 1982~~], an eligible local unit of government shall be entitled to receive annually a supplement of two thousand ***seven***[~~five~~] hundred ***fifty*** dollars ***($2,750)***[~~($2,500)~~] for each qualified police officer it employs, ***and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs,*** plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same

percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170 shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 57. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(4) Upon the request of a sheriff to participate in the Kentucky Law Enforcement Foundation Program fund authorized by KRS 15.410 to 15.510, the county shall establish a deputy sheriffs' merit board as provided in this statute.

SECTION 58. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

As used in Sections 58 to 61 of this Act, the following definitions apply:

(1) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of methamphetamine, or possession with intent to manufacture, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, except that this term does not include activities:

(a) By a practitioner incident to administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or incident to, research, teaching, or chemical analysis; or

(c) By a pharmacist incident to dispensing of a controlled substance in the course of his professional practice.

(2) "Methamphetamine" means any substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(3) "Traffic" means to distribute, dispense, sell, transfer, or possess with intent to distribute, dispense, or sell methamphetamine.

SECTION 59. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of manufacturing methamphetamine when he knowingly and unlawfully:

(a) Manufactures methamphetamine; or

(b) Possesses the chemicals or equipment for the manufacture of methamphetamine with the intent to manufacture methamphetamine.

(2) Manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense.

SECTION 60. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of trafficking in methamphetamine when he knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with intent to distribute methamphetamine.

(2) Trafficking in methamphetamine is a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

SECTION 61. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Any person convicted of, pleading guilty to, or entering an Alford plea to any offense involving trafficking in a controlled substance or trafficking in marijuana shall, in addition to any other penalty authorized by law, be sentenced to:

(1) Pay the costs of disposal of the controlled substances;

(2) Pay the costs of disposal of all equipment, chemicals, materials, or other items used in or in furtherance of the trafficking offense;

(3) Pay the costs involved with environmental clean-up and remediation required for the real property and personal property used for or in furtherance of the trafficking offenses; and

(4) Pay the costs of protecting the public from dangers from chemicals, materials, and other items used for or in furtherance of the trafficking offense from the time of the arrest until the time that the clean-up or remediation of the real and personal property is concluded. The Commonwealth shall have a lien on all of the assets of the defendant until the amount specified by the court under this subsection is paid in full. The Commonwealth's attorney shall file the lien.

Section 62. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Controlled substance" means ***methamphetamine, or*** a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(4) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(5) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(8) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(9) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(10) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(11) "Manufacture"***, except as provided in Section 58 of this Act,*** means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(12) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(13) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (13)(a) of this section, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f).

(14) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(15) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(18) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(19) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in

KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(20) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(21) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(22) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(23) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(24) "Traffic"***, except as provided in Section 58 of this Act,*** means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(25) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(26) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 63. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance***, except a substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is*** classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 64. KRS 218A.1413 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the second degree when:

(a) He knowingly and unlawfully traffics in a controlled substance classified in Schedules I and II which is not a narcotic drug; ***or specified in KRS 218A.1412;*** or a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana; or

(b) He knowingly and unlawfully prescribes, orders, distributes, supplies, or sells an anabolic steroid for:

1. Enhancing performance in an exercise, sport, or game; or
2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class D felony.

(b) For a second or subsequent offense be guilty of a Class C felony.

Section 65. KRS 218A.1415 is amended to read as follows:

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses: a controlled substance ***that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is*** classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Possession of a controlled substance in the first degree is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

Section 66. KRS 218A.1416 is amended to read as follows:

(1) A person is guilty of possession of a controlled substance in the second degree when he knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is not a narcotic drug; ***or specified in KRS 218A.1415;*** or, a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana.

(2) Possession of a controlled substance in the second degree is:

- (a) For a first offense a Class A misdemeanor.
- (b) For a second or subsequent offense a Class D felony.

Section 67. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;
- (c) Opium poppy and poppy straw;
- (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) ~~[Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;~~
- ~~(c)]~~ Phenmetrazine and its salts;
- ***(c)***~~[(d)]~~Methylphenidate.

Section 68. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed directly by a practitioner to an ultimate user, no ***methamphetamine or*** controlled substance in Schedule II may be dispensed without the written prescription of a practitioner. No controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The maintenance of prescription records under the federal controlled substances laws and regulations, containing substantially the same information as specified herein, shall constitute compliance with this subsection. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. All prescriptions for controlled substances shall be retained for a period of two (2) years.

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing

the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

Section 69. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

    (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be ***guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor***[~~punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment~~].

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

    (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

    (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 70. KRS 532.060 is amended to read as follows:

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) The authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than ***fifty (50) years, or*** life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) ***For any felony specified in KRS Chapter 510, KRS 530.020, 530.064, or 531.310 the sentence shall include an additional three (3) year period of conditional discharge which shall be added to the maximum sentence rendered for the offense. During this period of conditional discharge, if a defendant violates the provisions of conditional discharge, the defendant may be reincarcerated for:***

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of conditional discharge, or if the initial sentence has been served, for the remaining period of conditional discharge.

(4) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

Section 71. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death, ***or at a term of imprisonment for life without benefit of probation or parole,*** or at a term of imprisonment for life without benefit of probation or parole until he has served a minimum of twenty-five (25) years of his sentence, or to a sentence of life, or to a term of not less than twenty (20) years ***nor more than fifty (50) years***.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

(4) In all cases in which the death penalty may be authorized the judge shall instruct the jury in accordance with subsection (1) of this section. The instructions shall state, subject to the aggravating and mitigating limitations and requirements of KRS 532.025, that the jury may recommend upon a conviction for a capital offense a sentence of death, ***or at a term of imprisonment for life without benefit of probation or parole,*** or a term of imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, or a sentence of life, or to a term of not less than twenty (20) years ***nor more than fifty (50) years***.

Section 72. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
6. The offender's act or acts of killing were intentional and resulted in multiple deaths;~~[and]~~
7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties;
8. ***The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect; and***
9. ***The offender's act of murder was premeditated and the result of substantial planning. The planning must be as to the commission of the murder itself and not simply as to the commission or attempted commission of any underlying felony.***

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;
2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime;~~[and]~~
8. The youth of the defendant at the time of the crime***; and***

9. Although the evidence suffices to sustain the verdict, it does not foreclose doubt respecting the defendant's guilt.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, ***or imprisonment for life without benefit of probation or parole,*** or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty***, or imprisonment for life without benefit of probation or parole,*** or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Section 73. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment, the court shall consider~~[the possibility of]~~ probation, probation with an alternative sentencing plan, or conditional discharge. ***Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge,*** after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation~~[, probation with an alternative sentencing plan,]~~ or conditional discharge ***shall***~~[should]~~ be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation~~[, probation with an alternative sentencing plan,]~~ or conditional discharge the defendant will commit another crime;

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(3) ***In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:***

(a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;

(b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:

(a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;

(b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or

(c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.

(5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.

(6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:

(a) To a halfway house for no more than twelve (12) months;

(b) To home incarceration with or without work release for no more than twelve (12) months;

(c) To jail for a period not to exceed twelve (12) months with or without work release, community service and

other programs as required by the court;

(d) To a residential treatment program for the abuse of alcohol or controlled substances; or

(e) To any other specified counseling program, rehabilitation or treatment program, or facility.

(7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence, and commit the defendant to an institution.

(8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:

(a) A defendant sentenced to a halfway house shall:

1. Be working or pursuing his or her education, or be enrolled in a full-time treatment program;

2. Pay restitution during the term of probation; and

3. Have no contact with the victim of the defendant's crime;

(b) A defendant sentenced to home incarceration shall:

1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;

2. Pay restitution during the term of home incarceration;

3. Enter a treatment program, if appropriate;

4. Pay all or some portion of the cost of home incarceration as determined by the court;

5. Comply with other conditions as specified; and

6. Have no contact with the victim of the defendant's crime;

(c) A defendant sentenced to jail with community service shall:

1. Pay restitution during all or some part of the defendant's term of probation; and

2. Have no contact with the victim of the defendant's crime; or

(d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:

1. Undergo mandatory drug screening during term of probation;

2. Be subject to active, supervised probation for a term of five (5) years;

3. Undergo aftercare as required by the treatment program;

4. Pay restitution during the term of probation; and

5. Have no contact with the victim of the defendant's crime.

(9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.

(10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030(6).

(11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.

(12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.

(13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.

(14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.

(15) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 74. KRS 532.020 is amended to read as follows:

(1) Any offense defined outside this code for which a law outside this code provides a sentence to a term of imprisonment in the state~~[penitentiary or reformatory]~~ for:

(a) At least one (1) but not more than five (5) years shall be deemed a Class D felony;

(b) At least five (5) but not more than ten (10) years shall be deemed a Class C felony;

(c) At least ten (10) but not more than twenty (20) years shall be deemed a Class B felony;

(d) For ***at least*** twenty (20) ***but not***~~[or]~~ more ***than fifty (50)*** years ***or for life*** shall be deemed a Class A felony.

(2) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum which falls between ninety (90) days and twelve (12) months shall be deemed a Class A misdemeanor.

(3) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum of less than ninety (90) days shall be deemed a Class B misdemeanor.

(4) Any offense defined outside this code for which a law outside this code provides a sentence to a fine only or to any other punishment, whether in combination with a fine or not, other than death or imprisonment shall be deemed a violation.

Section 75. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of any felony offense under KRS Chapter 510, 530.020, 530.064, 531.310, any sexual offense under KRS 506.010 or 506.030, or any other felony offense committed in conjunction with a misdemeanor under KRS Chapter 510, the court shall, prior to determining the sentence, order an evaluation of the defendant to be conducted by the sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining the appropriate sentence. ***A copy of the evaluation shall be furnished to the Commonwealth and to the defendant.*** If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the evaluation or treatment.

(5) ***The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.***

(6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 76. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who

stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge***, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401***.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than ***fifty (50) years, or*** life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) ~~[If the offense the person presently stands convicted of is a Class A, B, or C felony,]~~A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, ***unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible***~~[nor]~~ for parole until ***the persons has***~~[having]~~ served a minimum term of incarceration of not less than ten (10) years. ***A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.***

(8) ***No conviction, plea of guilty, or Alford plea to a violation of KRS 218A.500 shall bring a defendant within the purview of or be used as a conviction eligible for making a person a persistent felony offender under this section.***

(9) The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.

Section 77. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim ***or serious physical injury to a victim***, or rape in the first degree or sodomy in the first degree of the victim~~[, or serious physical injury to a victim]~~. ***The court shall designate in its judgment if the victim suffered death or serious physical injury.***

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole ***or imprisonment for life without benefit of probation or parole***), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on parole until he has served at least ***twenty (20)***~~[twelve (12)]~~ years in the penitentiary. ***Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.***

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on parole until he has served at least ***eighty-five percent (85%)***~~[fifty percent (50%)]~~ of the sentence imposed.

(4) ***A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.***

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6)~~[(5)]~~ This section shall apply only to those persons who commit offenses after July 15, ***1998***~~[1986]~~.

(7) For offenses committed prior to July 15 ,1998, the version of this statute in effect immediately prior to that date shall continue to apply.

Section 78. KRS 439.3405 is amended to read as follows:

(1) Notwithstanding any statute eliminating ***parole*** or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(10), 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition likely to result in death within one (1) year ***or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility due to paralysis as a result of stroke or trauma; or is dependent on external life support systems*** and would not pose a threat to society if paroled.

(2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year ***or because of the conditions set forth in subsection (1) of this section he is totally dependent on others for the activities of daily living***.

(3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the warden of the institution who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical

information and warden's recommendation, shall be submitted to the board.

(4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.

Section 79. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of State Police, ***directors of the Southern Police Institute***[~~the dean of the School of Police Administration~~] of the University of Louisville, the dean of the ***College***[~~School~~] of Law Enforcement of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, and the Kentucky president of the Fraternal Order of Police, shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the Federal Bureau of Investigation shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him and vote on his behalf.

(2) Nine (9) members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, one (1) Kentucky sheriff, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

SECTION 80. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune from any civil liability.

(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.

(5) The Department of Corrections and the Cabinet for Human Resources shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.

Section 81. KRS 532.210 is amended to read as follows:

(1) Any misdemeanant ***or a felon who has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony offense*** may petition the sentencing court for an order directing that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration. Such petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the ***defendant's***[~~misdemeanant's~~] sentence.

(2) The sentencing judge shall study the record of all persons petitioning for home incarceration and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the county jailer or misdemeanor supervision department;

(b) Conduct hearings on the desirability of granting home incarceration;

(c) Impose on the home incarceree such conditions as are fit, including restitution;

(d) Order that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration at whatever time or intervals, consecutive or nonconsecutive, as the court shall determine. The time actually spent in home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to this chapter whichever is the shorter;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of home incarceration, conduct hearings on such matters, and order reimprisonment in the county jail upon proof of violation; and

(f) Grant final discharge from incarceration.

(3) All home incarcerees shall execute a written agreement with the court setting forth all of the conditions of home incarceration. The order of home incarceration shall incorporate that agreement and order compliance with its terms. The order and agreement shall be transmitted to the supervising authority and to the appropriate jail official.

(4) Time spent in home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to this chapter.

(5) Home incarcerees shall be under the supervision of the county jailer except in counties establishing misdemeanor supervision departments, wherein they shall be under the supervision of such departments. Home incarcerees shall be subject to the decisions of such authorities during the period of supervision. Fees for supervision or equipment usage shall be paid directly to the supervising authority.

SECTION 82. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

(1) No person, who at the time of the commission of the offense was acting or collaborating to engage on a continuing basis in furtherance of criminal gang activity, shall commit any of the following offenses:

(a) Any felony offense named in KRS 439.3401;

(b) Any offense under Section 83 of this Act; or

(c) Any illegal trafficking in destructive devices or booby traps as defined in KRS Chapter 237.

(2) Other provisions of law notwithstanding, any person who is convicted of any of the offenses enumerated in subsection 1(a) to (h) of this section who was acting in furtherance of criminal gang activity at the time of the commission of the offense shall be penalized an additional one (1), two (2), or three (3) years, at the discretion of the judge.

(3) As used in this section, "criminal gang activity" means a group of five (5) or more persons having four (4) or more of the following:

(a) Self-proclamation;

(b) A common name;

(c) Common identifying hand or body signs or signals;

(d) A common identifying mode, style, or color of dress;

(e) An identifying tattoo or body marking;

(f) An organizational structure, overt or covert;

(g) A de facto claim of territory or jurisdiction; or

(h) An initiation ritual.

(4) As used in this section, "continuing basis" means the commission, attempted commission, solicitation, or conviction of at least two (2) crimes, one (1) of which occurred after the effective date of this chapter and the last of which occurred within two (2) years, excluding any period of imprisonment, after the commission of a prior criminal act.

SECTION 83. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal gang recruitment when he solicits, entices, intimidates, or threatens another person because the other person:

(a) Refuses to join a criminal gang;

(b) Has withdrawn or is attempting to withdraw from a criminal gang; or

(c) Refuses to submit to a demand made by a criminal gang.

(2) Criminal gang recruitment is a Class A misdemeanor for the first offense, and a Class D felony for a second or subsequent offense.

SECTION 84. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

(1) It is no defense to prosecution under Section 82 or 83 of this Act that:

(a) One (1) or more members of the gang are not criminally responsible for the offense;

(b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been

convicted of a different offense, or are under prosecution;

(c) A person has been charged with, acquitted, or convicted of any offense under Section 82 or 83 of this Act;

(d) The participants may not know each other's identity;

(e) The membership in the criminal gang may change from time to time; or

(f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.

(2) Once the initial combination of five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing course of conduct constituting a violation of Section 82 or 83 of this Act.

Section 85. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters ***600***~~[610]~~ to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm was used in the commission of the offense or had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony.

If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, unless released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

SECTION 86. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's Attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:

(a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been

released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense.

(b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045.

(c) No person shall be eligible for pretrial diversion more than once in a five (5) year period.

(d) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program.

(e) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion.

(2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.

(3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

SECTION 87. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

When considering an application for pretrial diversion the attorney for the Commonwealth shall:

(1) Have a criminal record check made to ascertain if the person is eligible for pretrial diversion.

(2) Interview the victim of the crime, if there is an identified victim, and, when the victim of the crime is deceased or the attorney for the Commonwealth deems it necessary, interview a member of the family of the victim of the crime. The attorney for the Commonwealth shall explain to the victim the diversion program, the proposed diversion conditions, and any other matters that the attorney for the Commonwealth deems to be appropriate. The results of the interview and recommendations of the victim may be presented to the court when it is considering the application for pretrial diversion. If the application for diversion is approved by the court, the approval shall be in open court and may be attended by the victim and the victim's family. The attorney for the Commonwealth shall attempt to notify them of this fact and the time, date, and place of the hearing.

(3) Conduct any other investigation that the attorney for the Commonwealth determines may be necessary with regard to the defendant and the circumstances of the crime so as to enable him or her to set proper conditions of pretrial diversion, or to make a decision whether to recommend pretrial diversion.

SECTION 88. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of KRS 533.020 relating to the period of probation shall, in so far as possible, be applicable to the period of pretrial diversion except that supervision of the participants in the programs shall be done by the Division of Probation and Parole.

(2) The provisions of KRS 533.030 relating to conditions of probation and restitution shall, in so far as possible, be applicable to pretrial diversion. Restitution shall be ordered in all cases where a victim has suffered monetary damage as a result of the alleged crime. Restitution to the state, or the victim, or both, may be ordered in any pretrial diversion program.

SECTION 89. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) If the defendant fails to complete the provisions of the pretrial diversion agreement within the time specified, or is not making satisfactory progress toward the completion of the provisions of the agreement, the Division of Probation and Parole, the victim, or a peace officer may inform the attorney for the Commonwealth of the alleged violation or noncompliance, and the attorney for the Commonwealth, may apply to the court for a hearing to determine whether or not the pretrial diversion agreement should be voided and the court should proceed on the defendant's plea of guilty in accordance with the law.

(2) In making a determination as to whether or not a pretrial diversion agreement should be voided, the court shall use the same criteria as for the revocation of probation, and the defendant shall have the same rights as he or she would if probation revocation was sought.

(3) Making application for a pretrial diversion agreement tolls any statute of limitations relative to the criminal offenses for which the application is made for the period until the application is granted or denied. Approval of the application for pretrial diversion by the court tolls any statute of limitations relative to criminal offenses diverted for the period of the diversion agreement.

(4) If the court voids the pretrial diversion agreement, the court shall notify the applicable prosecutor, in writing, that the pretrial diversion agreement has been voided and the reasons for the action. The prosecutor shall decide whether or not to proceed on the plea of guilty in accordance with the law.

SECTION 90. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) If the defendant successfully completes the provisions of the pretrial diversion agreement, the charges against the defendant shall be listed as "dismissed-diverted" and shall not constitute a criminal conviction.

(2) The defendant shall not be required to list this disposition on any application for employment, licensure, or otherwise unless required to do so by federal law.

(3) Pretrial diversion records shall not be introduced as evidence in any court in a civil, criminal, or other matter without the consent of the defendant.

SECTION 91. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Supreme Court of Kentucky shall, by rule, determine all forms and other matters necessary for the proper administration of the pretrial diversion program.

SECTION 92. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) The pretrial diversion program authorized by Sections 86 to 91 of this Act shall be the sole program utilized in the Circuit Courts of the Commonwealth.

(2) As of the effective date of this section, the only other pretrial diversion programs utilized by the Commonwealth shall be those authorized by the Kentucky Supreme Court and providing for the pretrial diversion of misdemeanants, except to supervise persons granted pretrial diversion prior to the effective date of this section. No new persons shall be admitted to these programs.

(3) A person who is in a pretrial diversion program as of the effective date of this section may continue in that program until he or she successfully completes the program or is removed from the program for other reasons, whichever occurs earlier.

Section 93. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Adult correctional facility" means ***any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department***[~~an adult penal or correctional facility for the exclusive confinement of sentenced adult felons who have been classified by the department to be minimum security and restricted custody inmates and shall include any prison, reformatory, farm center, forestry camp, or similar institution which houses minimum security sentenced adult felons. For purposes of KRS 197.505 to 197.525, a county or regional jail shall not be considered an adult correctional facility~~]; and

(3) "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

SECTION 94. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

All persons, while acting for a private provider pursuant to the provisions of KRS 197.505 to 197.525 in any capacity entailing the maintenance of custody over any prisoners, shall have the power and authority of peace officers, including the authority granted to Department of Corrections employees pursuant to KRS 196.037(2).

SECTION 95. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) When KRS 197.510 or any other statute relating to contracting for the private operation of prisons requires a performance bond, an irrevocable letter of credit or a performance bond in a form satisfactory to the Commonwealth may be substituted.

(2) The contract shall also protect the state's interest in providing a continual level of prison beds available without a sudden drop in the number of prison beds available or the need to release inmates or provide for their transfer to other facilities.

Section 96. KRS 197.170 is amended to read as follows:

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, the chief of police of the city and county, to which the inmate is released, and any victim, as defined in KRS 421.500, who has requested that he be notified on release of a particular inmate who victimized him and who has forwarded a current address and telephone number to the Department of Corrections, giving the residence of the person released and the name of the person to whom he was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. ***Notices posted pursuant to this subsection shall remain posted for not less than seven (7)***

days.

SECTION 97. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

In the event of a charge for a violation of KRS 514.040 with an amount of one hundred dollars ($100) or less, a summons shall be issued prior to an arrest warrant. An arrest warrant shall not be issued until the person charged fails to respond to the summons; unless the issuing judge determines that, based upon previous offenses or charges, an arrest of the person is necessary in order to reasonably assure his or her appearance in court.

Section 98. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990 and 15.992, unless the context otherwise requires:

(1) *"Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440;*

(2) "Certified peace officer" means a peace officer who is certified under Sections 99 to 110 of this Act;

(3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements established or approved by the Kentucky Law Enforcement Council pursuant to KRS 15.440 and the requirements set forth within this chapter;

(4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990 and 15.992;

(5)[~~(2)~~] "Department" means the Department of Criminal Justice Training of the Justice Cabinet;

(6)[~~(3)~~] "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;[~~ and~~]

(7) "Peace officer" means a person defined in KRS 446.010;

(8)[~~(4)~~] "Secretary" means the secretary of the Justice Cabinet*; and*

(9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

SECTION 99. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

- *(a) State Police officers;*
- *(b) City, county, and urban-county police officers;*
- *(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);*
- *(d) State or public university safety and security officers appointed pursuant to KRS 164.950;*
- *(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;*
- *(f) Airport safety and security officers appointed under KRS 183.880;*
- *(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and*
- *(h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.*

(2) The requirements of Sections 99 to 110 of this Act for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in Sections 99 to 110 of this Act for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

- *(a) Deputy coroners;*
- *(b) Deputy constables;*
- *(c) Deputy jailers;*

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers; and

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables; and

(d) Jailers.

(6) Federal peace officers cannot be certified under Sections 99 to 110 of this Act.

SECTION 100. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO READ AS FOLLOWS:

A person certified after December 1, 1998, under Sections 99 to 110 of this Act shall, at the time of becoming certified, meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) Be at least twenty-one (21) years of age;

(3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;

(4) Possess a valid license to operate a motor vehicle;

(5) Be fingerprinted for a criminal background check;

(6) Not have been convicted of any felony;

(7) Not be prohibited by federal or state law from possessing a firearm;

(8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

(9) Have received an honorable discharge if having served in any branch of the armed forces of the United States;

(10) Have passed a medical examination by the council to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council which shall accept them as complying with KRS 15.315 to 15.510;

(11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council which shall accept them as complying with KRS 15.315 to 15.510;

(12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in another state;

(15) Have taken a psychological examination administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council which shall accept them as complying with KRS 15.315 to 15.510;

(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of

the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and

(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

SECTION 101. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) The council shall administer the physical agility, polygraph, psychological, and drug screen tests at cost for those agencies requesting council-administered tests. Agencies may petition the council for waiver of the costs of these tests upon a showing of undue financial hardship.

(2) An agency may, at its own expense, administer its own physical agility, polygraph, psychological, medical, and drug screen tests, as well as additional tests.

SECTION 102. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

The following certification categories shall exist:

(1) Precertification status. The officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in Section 100 of this Act, but has not successfully completed a basic training course, except those officers covered by Section 109 of this Act. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his enforcement powers shall automatically terminate, and he shall not exercise peace officer powers in the Commonwealth until he has successfully completed a basic training course.

(2) Certification status. Unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.

(3) Inactive status.

(a) The person has been separated from the agency by which he was employed or appointed and has no peace officer powers;

(b) The person has been employed by another agency in a non-peace officer position; or

(c) The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he has not committed an act for which his certified status may be revoked pursuant to Sections 99 to 110 of this Act and by successfully completing forty (40) hours of in-service training as prescribed by the council.

(4) Revoked or denied status. The officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm.

(5) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

SECTION 103. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of Section 100 of this Act.

(2) If the person is certified, the council shall continue certified status.

(3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked as provided by Sections 99 to 110 of this Act.

(4) If the person is not certified and not on inactive status, the council shall designate the person as being in precertification status.

(5) A person who is in precertification status shall, upon successful completion of the required basic training, be

certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.

(6) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under Sections 99 to 110 of this Act.

(7) If the certified officer has successfully completed the basic training required by KRS 95.955 and transfers from a peace officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

SECTION 104. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

Any person who is aggrieved by a determination by the employing agency or by the council that he fails to meet the requirements for precertification status may:

(1) If the determination was made by the employing agency, appeal the decision in the same manner as other employment appeals within the agency, if an appeals procedure has been established by the employing agency; or

(2) If the determination was made by the council, appeal the decision to the local Circuit Court having jurisdiction over the employing agency.

SECTION 105. A NEW SECTION OF KRS CHAPTER 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency, or his designee, shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person has been separated for having pled guilty to, been convicted of, or entered an Alford plea to a felony, the council shall revoke the person's certification.

(3) If the person has been separated for any other reason other than death, the council shall place the certification on inactive status. If the person has been separated due to death, the certification shall be retired.

(4) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.

(5) The council shall not accept or hear complaints.

SECTION 106. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) If the council believes an agency's job task analysis to be insufficient or erroneous, the council shall file a declaratory action in Franklin Circuit Court to declare the job task analysis invalid.

(2) Until the job task analysis has been declared invalid and all appeals have been exhausted, the council shall accept the agency's job task analysis.

SECTION 107. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) An agency may be required to pay for all training received by a person from the Department of Criminal Justice Training or any other facility approved by the Kentucky Law Enforcement Council if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in Section 99 of this Act and if that person fails to achieve certified status as required by Sections 99 to 110 of this Act.

(2) The agency shall be denied participation in the Kentucky Law Enforcement Foundation Program Fund if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in Section 99 of this Act and if that person:

(a) Fails to meet those minimum qualifications set forth in Section 110 of this Act;

(b) Fails to achieve certified status as required by Sections 99 to 110 of this Act; or

(c) Fails to maintain the minimum training requirements set forth in KRS 95.955.

SECTION 108. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to Sections 99 to 110 of this Act shall not be superseded by the provisions of Sections 99 to 110 of this Act, and in all instances the provisions of all statutes specified below shall prevail:

(a) KRS Chapter 16, relating to Kentucky State Police Officers;

(b) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;

(c) KRS Chapter 78, relating to county police;

(d) KRS Chapters 15 and 95, relating to city and urban-county police;

(e) KRS Chapter 183, relating to airport safety and security officers;

(f) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;

(g) KRS Chapter 18A, relating to all state peace officers;

(h) KRS 241.090, relating to Department of Alcoholic Beverage Control field representatives and investigators;

(i) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and

(j) Any other statutes affecting peace officers not specifically cited herein.

SECTION 109. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

(1) The effective date of Sections 99 to 110 of this Act shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of Sections 99 to 110 of this Act and shall be granted certified status as long as they remain in continuous employment of the agency by which they were employed as of the effective date of this Act, or shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(4) when seeking employment with another law enforcement agency.

(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in Sections 99 to 110 of this Act. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.

(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, social security number, background investigation, medical examination, psychological examination, and polygraph examination conducted pursuant to his statute shall not be subject to disclosure.

SECTION 110. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

No provisions of Sections 99 to 110 of this Act shall preclude an appointing or employing agency from having requirements that are in excess of or in addition to any requirements specified by this Act or an administrative regulation promulgated under Sections 99 to 110 of this Act.

Section 111. KRS 532.055 is amended to read as follows:

(1) In all felony cases, the jury in its initial verdict will make a determination of not guilty, guilty, guilty but mentally ill, or not guilty by virtue of insanity, and no more.

(2) Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury. In the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.

(a) Evidence may be offered by the Commonwealth relevant to sentencing including:

1. Minimum parole eligibility, prior convictions of the defendant, both felony and misdemeanor;

2. The nature of prior offenses for which he was convicted;

3. The date of the commission, date of sentencing, and date of release from confinement or supervision from all prior offenses;

4. The maximum expiration of sentence as determined by the division of probation and parole for all such current and prior offenses;

5. The defendant's status if on probation, parole, conditional discharge, or any other form of legal release;[~~and~~]

6. Juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult. Subject to the Kentucky Rules of Evidence, these records shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the federal Social Security Act is also prohibited; ***and***

7. The impact of the crime upon the victim, as defined in KRS 421.500, including a description of the nature and extent of any physical, psychological, or financial harm suffered by the victim;

(b) The defendant may introduce evidence in mitigation ***or in support of leniency***[~~. For purposes of this section,~~

~~mitigating evidence means evidence that the accused has no significant history of criminal activity which may qualify him for leniency. This section shall not preclude the introduction of evidence which negates any evidence introduced by the Commonwealth~~]; and

(c) Upon conclusion of the proof, the court shall instruct the jury on the range of punishment and counsel for the defendant may present arguments followed by the counsel for the Commonwealth. The jury shall then retire and recommend a sentence for the defendant.

(3) All hearings held pursuant to this section shall be combined with any hearing provided for by KRS 532.080.[~~ This section shall not apply to sentencing hearings provided for in KRS 532.025.~~]

(4) In the event that the jury is unable to agree as to the sentence or any portion thereof and so reports to the judge, the judge shall impose the sentence within the range provided elsewhere by law.

Section 112. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500) ***per year***.

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500) ***per year***, except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its

supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In counties containing a city of the first class or an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county containing a city of the first class or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county containing a city of the first class or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) ***per year***. All sums paid by the defendant under this subsection shall be paid into the general fund of the county containing a city of the first class or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county containing a city of the first class or urban-county involved. The adult misdemeanant probation and work release program of the county containing a city of the first class or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

Section 113. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of the Department of Personnel shall have the authority to prescribe by administrative

regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Human Resources under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly-owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works***, and any "private provider", as defined in Section 93 of this Act, which enters into any contract for the construction of an "adult correctional facility", as defined in Section 93 of this Act***; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work***, including "adult correctional facilities", as defined in Section 93 of this Act,*** constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 114. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for

which a previous sentence of probation or conditional discharge has been revoked, the multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed. ***In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years.***

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state, the term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. The person may be transferred to another institution pursuant to administrative regulations of the Department of Corrections.

SECTION 115. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) When a person is convicted of, pleads guilty to, or enters an Alford plea to a felony offense and is sentenced to jail as a condition of conditional discharge, or as a condition of probation, the Department of Corrections shall pay for the incarceration of that person in a county jail at the same rate and under the same conditions as for a Class D felon who is incarcerated in the county jail under KRS 532.100.

(2) If a person incarcerated in a county jail on conditional discharge or probation under subsection (1) of this section is granted work release, he shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a prisoner shall be deducted from the amount which the Department of Corrections shall pay for the incarceration of that prisoner.

Section 116. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3),[~~ (4),~~] (5), (6), (7),[~~ or~~] (8) ***or (9)***, the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020***(2), (3), (6), (7), (8), or (9)***, the District Court shall, upon motion by the county attorney to proceed under this chapter, and after the county attorney has consulted with the Commonwealth's attorney, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the District Court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public;[~~ and~~]
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system***; and***

8. Evidence of a child's participation in a gang.

(c) If, following the completion of the preliminary hearing, the District Court finds, after considering the factors enumerated in paragraph (b) of this subsection, that two (2) or more of the factors specified in paragraph (b) of this subsection are determined to favor transfer, the child may be transferred to Circuit Court, and if the child is transferred the District Court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the District Court is of the opinion, after considering the factors enumerated in paragraph (b) of this subsection that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), ***(5)***[~~(4)~~], (6),[~~ and~~] (7), ***and (8),*** but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

Section 117. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

(a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.510 and KRS 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To approve, to issue and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(e) To approve law enforcement officers and other persons as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(f) To inspect and evaluate schools at any time and to require of schools, instructors and persons approved or to be approved under the provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992, any information or documents;

(g) To recommend reasonable rules and regulations to the secretary to accomplish the purposes of KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(h) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;[~~ and~~]

(i) To adopt bylaws for the conduct of its business not otherwise provided for***; and***

(j) The council shall have the authority to certify police officers as set out in this chapter.

(2) The provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992 do not apply to the Department of State Police ***except for the certification requirement established by this chapter***.

Section 118. KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff or volunteer who is an adult, adult athletic manager, adult coach, teacher, counselor, staff or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

(b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

(c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.040, 510.050, 510.070, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

(a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

(e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

(g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

(h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by Section 25 of this Act.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of an evaluation of the offender performed by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The court shall use the evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services.

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the evaluation or treatment.

(6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) All communications relative to the evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

SECTION 119. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a program for prerelease probation of inmates confined in correctional facilities under the jurisdiction of or under contract to the Department of Corrections.

(2) Any inmate who is in a prerelease program or eligible for a prerelease program as specified by administrative regulations of the Department of Corrections may apply to the sentencing court for prerelease probation.

(3) The court, upon favorable recommendation of the Department of Corrections, may place the inmate on probation under those terms and conditions the court deems necessary, which may include but not need to be limited to those specified in KRS 533.030.

(4) In particular, the court may require that an inmate placed on prerelease probation remain in a half-way house approved by the Department of Corrections and that the probationer pay the cost of his or her lodging in the half-way house and the costs of probation supervision in accordance with applicable statutes for probation supervision and persons granted work release from jail.

(5) An inmate placed on prerelease probation shall no longer be considered as an inmate of the Department of Corrections but shall be considered as a defendant placed on probation, subject to supervision by the Division of Probation and Parole, or other agency approved by the court, and the orders of the court.

(6) A person placed on prerelease probation by the court who violates the conditions of his or her probation may be dealt with by the court in the same manner as any other person who violates the conditions of probation.

(7) The period of probation under this section shall not exceed the maximum expiration date of the inmate applying for the probation.

Section 120. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer ***at least the***[~~a~~] minimum ***federal wage***[~~annual salary of four thousand three hundred fifty dollars ($4,350)~~];

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972***, and for all sheriffs appointed or elected on or after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed after the effective date of this Act***; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection***, and that all sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to the effective date of this Act shall be deemed to have met the requirements of this subsection***;

(4) Requires all police officers employed on or after July 1, 1972, ***and all sheriffs appointed or elected on or after the effective date of this Act, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998,*** to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council***. All sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis***[~~; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection~~];

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, ***state or public university police, or sheriffs and their deputies,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, ***state or public university police department, or sheriff's office,*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department***, state or public university police department, or sheriff's office*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department***, state or public university police department, or sheriff's office*** has substantially complied with subsections (6) and (7) of this section.

Section 121. KRS 197.170 is amended to read as follows:

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, the chief of police of the city and county, to which the inmate is released, and any victim, as defined in KRS 421.500, who has requested that he be notified on release of a particular inmate who victimized him and who has forwarded a current address and telephone number to the Department of Corrections, giving the residence of the person released and the name of the person to whom he was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. ***Notices posted pursuant to this subsection shall remain posted for not less than seven (7)***

days.

Section 122. KRS 438.250 is amended to read as follows:

(1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV)***, hepatitis A, B, and C, and tuberculosis***.

(2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

SECTION 123. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of disarming a peace officer when he intentionally:

(a) Removes a firearm or other deadly weapon from the person of a peace officer when the peace officer is acting within the scope of his official duties; or

(b) Deprives a peace officer of the officer's use of a firearm or deadly weapon when the peace officer is acting within the scope of his official duties.

(2) Disarming a peace officer is a Class D felony.

(3) The provisions of this section shall not apply when:

(a) The defendant does not know or could not reasonably have known that the person disarmed was a peace officer; or

(b) The peace officer was, at the time of the disarming or incident thereto, engaged in felonious conduct.

SECTION 124. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to Section 127 of this Act, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to Section 127 of this Act shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus Property, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (2) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(2) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police and sheriff's departments for the purchase of body armor for sworn peace officers of those departments. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

Section 125. KRS 16.210 is amended to read as follows:

(1) Property taken by the Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.

(2) Property which is forfeited may be disposed of as provided by KRS 500.090; however, the proceeds of any sale shall go to the state ***or be distributed as otherwise provided by law***.

(3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

Section 126. KRS 237.090 is amended to read as follows:

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be ***disposed of***[~~destroyed, sold,~~] or retained as provided in KRS 500.090.

Section 127. KRS 500.090 is amended to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property ***other than firearms*** which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property ***other than firearms*** which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state if the property was seized by an agency of the state or peace officer thereof;
2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds) if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
6. The state, if the property was seized by any combination of agencies listed above.

(c) ***Subject to the duty to return confiscated firearms to innocent owners pursuant to this section, all firearms confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms coming into the custody of a state or local law enforcement agency and not retained for official use shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearms sold. Prior to the sale of any firearm, the law enforcement agency shall make a bona fide attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms shall not apply to firearms auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms of the type auctioned.***

(d) Proceeds from firearms sales shall be utilized by the law enforcement agency for the purchase of body armor meeting National Institute of Justice Standards for sworn officers of the law enforcement agency or for the purchase of firearms, ammunition, or range facilities, or a combination thereof, by the law enforcement agency. This subsection shall not apply to the Department of Fish and Wildlife.

(e) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(f)[~~(d)~~] Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120 the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section, who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may; in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

SECTION 128. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) When a police department, sheriff's department, or other agency of city, county, urban-county, or charter county government or other unit of local government disposes of firearms or ammunition owned by that unit of local government, the disposition shall be by:

(a) Public auction to persons eligible under federal law to purchase the type of firearm or ammunition being offered for sale;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency; or

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display.

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government.

SECTION 129. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When an agency of Kentucky state government disposes of firearms or ammunition owned by that agency, the disposition shall be by:

(a) Public auction to persons who are eligible under federal law to purchase the type of firearm or ammunition;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or

(d) Sale to a retiring employee as authorized by law.

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government. The provisions of this subsection shall not apply to the Department of Fish and Wildlife.

Section 130. KRS 95.435 is amended to read as follows:

(1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken

from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.

(2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.

(3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court, but shall be returned to the police department.

(4) All property ***except firearms*** that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose, after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. ***Firearms shall be disposed of as provided by KRS 500.090.***

SECTION 131. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) The administrator for each facility operated by the Department of Corrections or under contract to the department is encouraged to work with local religious leaders to provide a voluntary chaplain program.

(2) An inmate shall be allowed at least one (1) visit per week by a minister, priest, or rabbi of the inmate's choice.

SECTION 132. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Each local jailer is encouraged to work with local religious leaders to provide a voluntary chaplain program.

(2) An inmate shall be allowed at least one (1) visit per week by a minister, priest, or rabbi of the inmate's choice.

SECTION 133. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

Subject to restrictions for violations of rules, any inmate of a facility operated by or under contract to the department who requests religious publications or other religious instructional materials may receive them provided:

(1) They have been purchased by or donated to the inmate; or

(2) Donated to the institution for use by inmates; and

(3) Do not constitute a threat to the security of the institution.

SECTION 134. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Subject to restrictions for violations of rules, an inmate of a facility operated by or under contract to a local jail who requests religious publications or other religious instructional materials may receive them provided:

(1) They have been purchased by or donated to the inmate; or

(2) Donated to the institution for use by inmates; and

(3) Do not constitute a threat to the security of the institution.

SECTION 135. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) Each facility operated by the Department of Corrections or under contract to the department shall maintain reports of all grievances by inmates during a calendar year. A grievance report shall be an open public record and made available to any person who requests to see the file at the site as long as the inmate has signed a waiver of confidentiality.

(2) Each grievance report shall contain the date the grievance was filed, the nature of the grievance, the name of the individual filing the grievance as well as the name of the person preparing the report, the residence, the county, actions taken by the facility, and the date the report was filed. The report shall be signed by an administrator or officer of the facility.

(3) With the written permission of the inmate, a photo copy of the file may be made and the content may be released to the public. The facility may require a ten cent ($0.10) per page copying fee.

(4) All grievance reports may be destroyed after December 31 of the following year.

Section 136. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. Licenses shall be valid throughout the state for a period of three (3) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal

violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by any one (1) of the following:

1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of Fish and Game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;

2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;

3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or

4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training, Department of State Police, and any other state agency with the authority to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and de-certification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System shall be exempt from paying the application or renewal fees following the date of his retirement. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(5) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (4) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(6) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (5) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence.

(7) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(8) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to

the clerk of the district court.

(9) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(10) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(11) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (4), (5), and (6) of this section.

(12) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding, except that nothing in this section shall preclude a judge from carrying a concealed weapon;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property;

(h) Any church, synagogue, house of worship, or other property owned, leased, or otherwise used and operated by a religious organization in the furtherance of a religious purpose; or

(i) Any place where the carrying of firearms is prohibited by federal law.

(13) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. ***A private but not a public***~~[An]~~ employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employee***, except that the Justice Cabinet may prohibit an employee from carrying any weapons, other than the weapons issued or authorized to be used by the employee of the cabinet, in a vehicle***

while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(14) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(15) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(16) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state and whose state grants to Kentucky residents the right to carry a concealed deadly weapon in the state of the licensee without requiring a separate license to carry a concealed deadly weapon issued by that state, may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) A person who holds a valid license issued by another state of the United States whose home state permits Kentucky residents to obtain a license to carry a concealed deadly weapon in that state may apply directly to the Department of State Police for a license to carry concealed deadly weapons in Kentucky. The Department of State Police shall take whatever steps are necessary to verify that the person applying has a valid license to carry a concealed deadly weapon issued by his home state.

(17) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

Section 137. KRS 61.365 is amended to read as follows:

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

(1) Federal Bureau of Investigation special agents;

(2) United States Secret Service special agents;

(3) United States Marshal's service deputies;

(4) Drug Enforcement Administration special agents;

(5) Bureau of Alcohol, Tobacco, and Firearms special agents;

(6) United States Forest Service special agents and law enforcement officers***;***

(7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture.

Section 138. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a sex offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) ~~[Beginning January 1, 1995,]~~Any person eighteen (18) years of age or older at the time of the offense ***or any youthful offender*** who ***has committed or attempted***~~[is released on probation, shock probation, conditional discharge by the court, parole, or a final discharge from a penal institution for committing or attempting]~~ to commit a sex crime shall, within ***ten (10)***~~[fourteen (14)]~~ days after his release, ***by the court, the parole board, or the cabinet,*** register with the ***appropriate*** local probation and parole office in the county in which he resides.

(3) ~~[Beginning January 1, 1995,]~~Any person ***required to register pursuant to subsection (2) of this section***~~[who is discharged, paroled, or released on shock probation from a jail, prison, or other institution where he was confined because of the commission or attempt to commit a sex crime]~~ shall~~[, prior to discharge, parole, or release,]~~ be informed of the duty to register under this section by the ***court at the time of sentencing and by the*** official in charge of the place

of confinement ***upon release***. The ***court and the*** official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained to the person. The ***court and the*** official in charge of the place of confinement shall require the releasee to complete the ***acknowledgment***[~~registration~~] form ***and the court or the official shall retain the original completed form***. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(4) ***The court or the official shall order the person to register with the appropriate local probation and parole office.***

(5) [~~Beginning January 1, 1995, any person who is sentenced in this state pursuant to a guilty plea or a jury verdict of conviction of the commission or attempt to commit a sex crime and who is released on probation or conditional discharge shall prior to release or discharge be informed by the court in which the person has been convicted of the duty to register with the local probation and parole office in the county in which he resides. The court shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained and order the person to register with the local probation and parole office. Upon completion of the registration form,~~]The ***appropriate*** probation and parole office shall send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(6)[~~(5) Beginning January 1, 1995,~~]Any person who has pled guilty or been convicted in another state of the commission or attempt to commit a sex crime and who remains under active probation or parole supervision at the time of his relocation to Kentucky shall be informed of the duty to register under this section by the interstate compact officer of the Department of Corrections ***or the Department of Juvenile Justice***. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall ***order***[~~require~~] the person to complete the registration form. The officer shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(7)[~~(6)~~] The registration form shall be a written statement signed by the person which shall include sex offender information.

(8) For purposes of this section, and Sections 140 to 155 of this Act, a post office box number shall not be considered an address.

(9)[~~(7)~~] If the residence address of any registrant changes, the person shall register, within ***ten (10)***[~~fourteen (14)~~] days of the change of address, with the ***appropriate*** local probation and parole office in the county of his new residence. The ***appropriate*** local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(10)[~~(8)~~] Any person required to register under this section who violates any of the provisions of this section is guilty of a Class A misdemeanor.

(11)[~~(9)~~] Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class A misdemeanor.

(12)[~~(10)~~] The appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.

(13)[~~(11)~~] The statement required by subsection ***(6)***[~~(5)~~] of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.

(14)[~~(12)~~] Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

Section 139. KRS 17.520 is amended to read as follows:

(1) Persons classified as high risk sex offenders as provided by subsection (3) of Section 140 of this Act shall remain registered for the lifetime of the offender, unless redesignated pursuant to Section 154 of this Act.

(2) Persons ***classified as low or moderate risk sex offenders***[~~required to register pursuant to the provisions of KRS 17.510~~] shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

(3) If a sex offender is re-incarcerated for another offense or as the result of having violated the terms of probation parole, or conditional discharge the registration requirements are tolled during the subsequent incarceration.

SECTION 140. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

As used in Sections 140 to 155 of this Act, the following definitions shall apply:

(1) "The board" means the Sex Offender Risk Assessment Advisory Board created under Section 142 of this Act;

(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500 who suffers from a

mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety;

(3) "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;

(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;

(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;

(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;

(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;

(8) "Certified provider" means a mental health professional certified by the Sex Offender Risk Assessment Advisory Board to conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessment pursuant to KRS 532.050 or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045; and

(9) "Victim" means victim as defined by KRS 421.500.

SECTION 141. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

No person shall conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, without first obtaining a certification from the Sex Offender Risk Assessment Advisory Board.

SECTION 142. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall certify providers who shall conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

(2) The board shall develop a risk assessment procedure that shall be used by certified providers in assessing the risk of recommitting a sex crime by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:

(a) Criminal history;

(b) Nature of the offense;

(c) Conditions of release that minimize risk;

(d) Physical conditions that minimize risk;

(e) Psychological or psychiatric profiles;

(f) Recent behavior that indicates an increased risk of recommitting a sex crime;

(g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and

(h) Review of the victim impact statement.

SECTION 143. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The board shall consist of the members named in subsections (1) and (2) of this section:

(1) (a) The commissioner of the Department of Corrections, or the commissioner's designee;

(b) The commissioner of the Department of Juvenile Justice, or the commissioner's designee;

(c) The program administrator of the Sex Offender Treatment Program created pursuant to KRS 197.400; and

(d) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee.

(2) The following members, appointed by the Governor:

(a) One (1) probation and parole officer;

(b) Four (4) mental health professionals licensed or certified pursuant to KRS Chapter 309, 311, 314, 319, or 335

who demonstrated expertise in working with sex offenders;

(c) One (1) professional working in an agency which provides services to adult or child victims of sex offenses; and

(d) One (1) representative of an advocacy group with a demonstrated interest in the welfare of victims of sex offenses.

(3) The Governor shall appoint the first chair of the board who shall serve for a term of two (2) years after which the chair shall be elected by the members of the board.

(4) The probation and parole officer and the members identified in subsection (2) of this section shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless removed sooner for cause, but they shall remain on the board until their successors are appointed or until they are reappointed.

(5) No member appointed pursuant to subsection (4) of this section may be represented by a designee.

(6) No member appointed pursuant to subsection (4) of this section shall serve more than four (4) years unless reappointed.

(7) All members identified under subsection (1) of this section shall serve during their terms of office.

(8) All members of the board shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties on the board.

(9) The board shall be empowered to create committees for the purpose of carrying out its statutory duties.

(10) The board shall be attached to the Department of Corrections for administrative purposes.

SECTION 144. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue, refuse to issue, reissue, or renew a provider certificate, or may probate, suspend, or revoke the certificate of a provider who conducts sexual offender assessments.

(2) The board shall revoke the certificate of a provider who conducts sexual offender assessments while his certification is suspended.

SECTION 145. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the refusal to issue, renew, probate, suspend, or revoke the certificate of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.

(a) The hearing may be conducted by a hearing officer;

(b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.

(2) The board may proceed against a certified provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.

(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the certified provider.

(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 146. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

A quorum of the board shall consist of at least six (6) members. The concurring votes of five (5) members shall be considered as the action of the board, except in the case of revoking a certificate, in which case the concurring votes of at least seven (7) members shall be required.

SECTION 147. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of Sections 140 to 155 of this Act.

(2) The board may promulgate administrative regulations requiring mandatory continuing education for certified providers to continue conducting sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, as a condition for obtaining their renewal certificates.

SECTION 148. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Only persons certified under Sections 140 to 155 of this Act may be known as certified providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are certified providers who conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

SECTION 149. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of Sections 140 to 155 of this Act, the board may apply to the Franklin Circuit Court for an order enjoining these acts or practices.

(1) Upon a showing by the board that a person has engaged, or is about to engage, in any of these acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state and the order of the court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

SECTION 150. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon conviction of a "sex crime" as defined in KRS 17.500, and within sixty (60) calendar days prior to the discharge, release, or parole of a sex offender, the sentencing court shall order a sex offender risk assessment by a certified provider for the following purposes:

(a) To determine whether the offender should be classified as a high, moderate or low risk sex offender;

(b) To designate the length of time a sex offender shall register pursuant to KRS 17.500 to 17.540; and

(c) To designate the type of community notification that shall be provided upon the release of the sex offender pursuant to KRS 17.500 to 17.540.

(2) The sex offender shall pay for any assessment required pursuant to Sections 140 to 155 of this Act up to the offender's ability to pay, but not more than the actual cost of the assessment.

(3) In making the determination of risk, the sentencing court shall review the recommendations of the certified provider along with any statement by a victim or victims and any materials submitted by the sex offender.

(4) The court shall conduct a hearing in accordance with the Rules of Criminal Procedure and shall allow the sex offender to appear and be heard.

(5) The court shall inform the sex offender of the right to have counsel appointed in accordance with KRS 31.070 and KRS 31.110.

(6) The sentencing court shall issue findings of fact and conclusions of law and enter an order designating the level of risk.

(7) The order designating risk shall be subject to appeal.

(8) Upon release, either by probation, conditional discharge, parole, or serve-out, the sentencing court or the official in charge of the place of commitment shall forward the risk determination that the sentencing court has issued for that sex offender to the sheriff of the county to which the offender is to be released.

SECTION 151. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) If the offender is determined to be a high risk sex offender, the notification shall include offender information as defined in KRS 17.500 and any special conditions imposed by the court or the Parole Board. The Social Security number of the offender shall not be released to those persons identified in paragraphs (c), (d), and (f) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is to be released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police;

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victims of the offender, if the agency, organization, or group has filed a request for notification with the local sheriff; and

(f) The general public through statewide media outlets and by any other means as technology becomes available.

(2) Upon a finding by the sentencing court that the offender is a high risk sexual offender, the designation shall continue until the sentencing court determines that the individual is no longer a high risk sex offender.

(3) An offender who has been designated by the sentencing court to be a high risk sex offender shall upon his release by the court, parole board, or the cabinet, be required to register for his lifetime in accordance with the provisions of KRS 17.510 and shall be subject to community notification pursuant to this section and Section 152 of this Act.

(4) If the offender is determined to be a moderate risk sex offender, the notification shall include offender information as defined under KRS 17.500, the zip code in which the offender resides, and any special conditions imposed by the

court or the Parole Board. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the individuals identified in paragraphs (c) and (e) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police; and

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victim or victims of the sexual offender, if the agency, organization, or group has filed a request for notification with the local sheriff.

(5) If the offender is determined to be a low risk sex offender, the notification shall include offender information as defined in KRS 17.500. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the persons identified in paragraph (c) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified, and

(d) The Information Services Center, Kentucky State Police.

SECTION 152. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the certified provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:

(a) The institutional record;

(b) The medical record including all psychological records; and

(c) The treatment record.

(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court, or by another person duly authorized to release the information.

SECTION 153. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Communications made in the course of sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, or KRS 532.045 to the certified provider and any employee of the certified provider who is assigned to assist in the assessments, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

SECTION 154. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A person designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.

(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.

(3) The sentencing court shall conduct a second hearing as provided in Section 150 of this Act.

SECTION 155. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 141 of this Act shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) and said fine shall be paid to the Crime Victim Compensation Fund as established in KRS Chapter 346.

SECTION 156. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

As used in Sections 157 and 158 of this Act:

(1) "Condemned person" means a person for whom a specific day of execution is fixed by a mandate from the Kentucky Supreme Court or a warrant signed by the Governor.

(2) "Insane" means the condemned person does not have the ability to understand:

(a) That the person is about to be executed; and

(b) Why the person is to be executed.

Section 157. KRS 431.240 is amended to read as follows:

(1) Unless the execution is stayed by due process of law or under authority of subsection (2) of this section, the warden of the penitentiary or his deputy shall proceed, on the day and at the place named in the judgment of conviction, to cause the condemned person to be electrocuted. The execution shall take place before sunrise on the day designated in the judgment.

(2) If the condemned person is insane ***as determined under Section 157 of this Act*** or pregnant with child on the day designated for the execution, the execution shall be suspended until the condemned is restored to sanity or is delivered of child. The execution shall then take place under the warrant of the Governor and at the time designated by him, unless stayed by due process of law. If execution is suspended on the ground of insanity, the commissioner of the Department of Corrections ***shall***[~~may~~] transfer the condemned person to the ***Kentucky Correctional Psychiatric Center***[~~state forensic psychiatric facility operated by the Department of Corrections~~] until the time he is restored to sanity. Any administrative hearings authorized under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(3) If the condemned person escapes from custody and is recaptured after the expiration of the date fixed for the execution, the Governor, upon receiving written notice of the recapture from the warden of the penitentiary, shall send his warrant of execution to the warden by special messenger and shall name therein the day of execution. The warden shall then proceed to the execution thereof according to the provisions of KRS 431.215 to 431.270.

(4) When a judgment of death has not been executed on the day appointed therefor by the court, from any cause, the Governor, by a warrant under his hand and the seal of the Commonwealth, shall fix the day of the execution, which warrant shall be obeyed by the warden of the penitentiary.

SECTION 158. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

This section shall provide the exclusive procedure for challenging a condemned person's sanity, unless the Supreme Court of Kentucky expressly adopts a rule of court providing otherwise.

(1) A condemned person or the person's attorney may file a motion for stay of execution on the grounds that the condemned person is insane. The motion shall be filed in the Circuit Court of the county where the condemned person is incarcerated, or the county in which the condemned person was convicted, and shall be supported by at least two (2) affidavits. The Attorney General shall file a response within the time ordered by the court.

(2) Upon receiving a motion under subsection (1) of this section, the court shall order the condemned person to be evaluated by at least two (2) licensed mental health professionals and shall order the mental health professionals to submit their written evaluation to the court within ten (10) days of the evaluation. The court shall then schedule and conduct a hearing as soon as possible to determine whether the condemned person is insane.

(3) The court shall base its determination of insanity on a preponderance of the evidence. The court's determination may be appealed to the Supreme Court by the condemned person or the Attorney General.

(4) If the condemned person is determined to be insane, he or she shall be committed to the Kentucky Correctional Psychiatric Center. The treating psychiatrist shall then report, once each month or more frequently if the court orders, to the court and the condemned person's counsel on the progress the condemned person has made and whether there is a substantial probability that the person will become sane. If at any time a psychiatrist treating or evaluating the person determines the person to be sane, the psychiatrist shall immediately report that fact to the court.

(5) Upon receiving a report that a condemned person has become sane, the court shall schedule an evaluation and conduct a hearing in accordance with subsections (2) and (3) of this section to determine sanity. The court's determination may be appealed to the Supreme Court by the condemned person or the Attorney General.

Section 159. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law $42.00

(b) For an offense for which prepayment is not permitted or has not been made .... ***$67.00***[~~$47.00~~]

(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in District Court criminal matters as follows:

(a) Preparing an attestation	$0.50
(b) Preparing a certification	$1.00
(c) Preparing a copy of a document (per page)	$0.25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 160. KRS 189.393 is amended to read as follows:

No operator of a vehicle, after having received a visual or audible signal from ***an***~~[a traffic]~~ officer ***directing traffic***~~[, or marked police vehicle,]~~ shall knowingly ***or wantonly***~~[flee or attempt to elude any traffic officer by willful or wanton]~~ disregard ***the***~~[of such]~~ signal so as to interfere with or endanger the operation of~~[the police vehicle, or]~~ the traffic officer or other vehicles or pedestrians~~[, nor shall he increase the speed of his vehicle or extinguish the lights of his vehicle in an attempt to elude or flee]~~.

SECTION 161. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in the first degree when, while operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a police officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;

(b) The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;

(c) The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or

(d) By fleeing or eluding, the person is the cause, or creates substantial risk, of serious physical injury or death to any person or property; or

(2) When, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or

(b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of, serious physical injury or death to any person or property.

(3) Fleeing or evading police in the first degree is a Class D felony.

Section 162. KRS 520.100 is amended to read as follows:

(1) A person is guilty of ***fleeing or evading police in the second degree***~~[resisting an order to stop a motor vehicle]~~ when***,*** ***while operating a motor vehicle with intent to elude or flee, the person***~~[he]~~ knowingly ***or wantonly disobeys***~~[fails to obey]~~ a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) ***Fleeing or evading police in the second degree***~~[Resisting an order to stop a motor vehicle]~~ is a Class A misdemeanor.

Section 163. KRS 519.050 is amended to read as follows:

(1) A person is guilty of impersonating a public servant***, other than a peace officer,*** if he pretends to be a public servant***, other than a peace officer,*** or to represent a public agency***, other than a law enforcement agency,*** or act with the authority or approval of a public agency***, other than a law enforcement agency,*** with intent to induce another to submit

to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant***, other than a peace officer,*** is a Class A misdemeanor.

SECTION 164. A NEW SECTION OF KRS CHAPTER 519 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of impersonating a peace officer if he pretends to be a peace officer, or to represent a law enforcement agency or act with the authority or approval of law enforcement agency, with intent to induce another to submit to the pretended official authority or otherwise to act in reliance upon the pretense to his prejudice.

(2) Impersonating a peace officer is a Class D felony.

(3) As used in this section, the phrase "peace officer" means a peace officer as defined in KRS 446.010.

SECTION 165. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) In the event of the conviction of a defendant for the violation of any offense proscribed by KRS Chapter 510 or 531, the person who was the victim of the offense may bring an action in damages against the defendant in the criminal case.

(2) If the plaintiff prevails, he shall be entitled to attorney's fees and all other costs incurred in the bringing of the action, including but not limited to the services of expert witnesses, testing and counseling, medical and psychological treatment, and other expenses reasonably incurred as a result of the criminal act.

(3) Any award of nominal damages shall support an award of attorneys fees and costs to the prevailing party.

(4) Punitive damages as well as compensatory damages shall be awardable in cases brought under this section.

(5) The provisions of this section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or of any statutory or common law right of action but shall be construed as ancillary and supplemental thereto.

SECTION 166. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

Whenever a statute mentions an alternative to incarceration, that alternative may include a community-based, faith-based, charitable, church-sponsored, or nonprofit residential or nonresidential counseling and treatment program, and, upon petition by the defendant, the court may sentence or permit the defendant to attend that program. This program may also be used for pretrial diversion.

Section 167. KRS 439.335 is amended to read as follows:

In considering the granting of a parole the parole board is authorized to use ***computer voice stress analysis,*** the polygraph, truth serum and any other scientific means for personality analysis that may hereafter be developed, before granting a parole.

SECTION 168. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not take or attempt to take wildlife with a firearm, bow, or crossbow, if the person is manifestly under the influence of alcohol or any controlled substance, and the person:

(a) May endanger himself or herself or other persons or property; or

(b) Is engaging in any behavior specified in subsection (1)(a) to (d) of KRS 525.060.

(2) A peace officer may arrest a person for violating subsection (1) of this section.

Section 169. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission thereunder may, in addition to the penalties provided in subsection (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any regulation which has been or may be adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out, or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out, or limits.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsection (1) of KRS 150.235, subsection (2) of KRS 150.330 or 150.470, or any of the provisions of this chapter or any regulation adopted by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, 150.600, 150.630, 150.660, ***subsection (1) of Section 168 of this Act,*** subsection (1) of KRS 150.450, 150.470, the provisions of

KRS 150.195(5) to (8), or subsection (3) of KRS 150.660 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), or (4) of KRS 150.235 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall, for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1500); and for any subsequent offense, be fined two thousand dollars ($2000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390, or subsection (4) of KRS 150.092 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be subject to the penalties specified for such offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first violation of KRS 150.710. A subsequent violation shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions.

Section 170. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, ***any quantity of an alcoholic beverage,*** and any quantity of marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained ***when***~~[with knowledge that]~~ the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

Section 171. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. ***If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be imprisoned for at least seven (7) days.*** Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. ***If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be imprisoned for at least fourteen (14) days.***

(c) For a third ***or subsequent*** offense within a five (5) year period,~~[be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.~~

~~(d) For a fourth or subsequent offense within a five (5) year period,]~~ be guilty of a Class D felony.

(d)[~~(e)~~]For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

Section 172. KRS 189A.200 is amended to read as follows:

(1) In addition to the pretrial suspension of a motor vehicle operator's license authorized by KRS 189A.060, the court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1)(a), (b), (c), or (d) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form; or

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(4)***(d)***[~~(e)~~] or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court clerk shall retain any license surrendered to him pursuant to this section until:

(a) The court enters an order directing the return of the license to the defendant;

(b) In the event of a first offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), ninety (90) days have elapsed since the surrender of the license and the case has not been concluded;

(c) In the event of a second offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twelve (12) months have elapsed since the surrender of the license and the case has not been concluded;

(d) In the event of a third offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twenty-four (24) months have elapsed since the surrender of the license and the case has not been concluded;

(e) In the event of a fourth or subsequent offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), sixty (60) months have elapsed since the surrender of the license and the case has not been concluded;

(f) In the event of a charge involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), the period specified by KRS 189A.107 has elapsed since the surrender of the license and the case has not been concluded;

(g) A judgment of acquittal is entered in the case unless the applicable suspension period required by KRS 189A.107 has not expired; or

(h) A judgment of conviction for a violation of KRS 189A.010(1)(a), (b), (c), or (d) is entered in the case, whereupon the clerk shall transmit the license forthwith to the Department of Transportation.

(5) The clerk shall promptly notify the Department of Transportation of all licenses surrendered pursuant to this section.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed upon conviction.

Section 173. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(4)***(d)***[~~(e)~~] or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

SECTION 174. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) The sentencing court may issue a criminal garnishment order for all fines under KRS Chapter 534 or KRS 346.185, and for court costs, restitution, and reimbursement charges in this chapter.

(2) A criminal garnishment applies to any of the following:

(a) A convicted person's earnings as defined in KRS 427.005;

(b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;

(c) Money that is held by a garnishee on behalf of a convicted person;

(d) The convicted person's personal property that is in the possession of a garnishee; or

(e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.

(3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.

(4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.

(5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.

SECTION 175. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.

(2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents ($2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.

SECTION 176. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Any convicted person owing fines, court costs, restitution, or reimbursement before or after his release from incarceration shall be subject to a lien upon his interest, present or future, in any real property.

(2) The real property lien shall be filed in the circuit clerk's office of the county in which the person was convicted and shall also be filed by the Commonwealth in any county in which the convicted person is known to own property or reside.

(3) The lien may be foreclosed upon in the manner prescribed in KRS Chapter 426 and shall remain valid until satisfied. The lien shall constitute a charge against the estate of any decedent owing moneys under this chapter.

(4) The attorney for the Commonwealth, and not the crime victim, shall prepare and file lien documents for moneys to be restored to the crime victim. The manner of filing, recording, and releasing the lien shall be consistent with the provisions of KRS Chapter 376.

(5) The attorney for the commonwealth shall pay to the county clerk five dollars ($5) which shall be assessed as court costs for the filing of any lien upon real estate. The filing fee shall constitute payment for both filing and release of the lien. The attorney for the Commonwealth shall notify the appropriate county clerk that the lien has been satisfied within ten (10) days of satisfaction.

(6) A lien under this section shall bear interest at the same rate as for a civil judgment unless the court orders that interest not be awarded. In considering whether interest shall be awarded, the court shall consider the following factors, among others:

  (a) The defendant's ability to pay the amount of the interest;

  (b) The hardship likely to be imposed on the defendant's dependents by paying the amount of the interest and the time and method of paying it;

  (c) The impact that the amount of the interest will have on the defendant's ability to make reparation or restitution to the victim; and

  (d) The amount of the defendant's gain, if any, derived from the commission of the offense.

SECTION 177. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) If the garnishee holds property or moneys of the defendant, the garnishee shall immediately transfer the property or moneys to the person or official named in the garnishment.

(2) If the garnishee holds personal property or stock of the defendant, the court shall hold the personal property or stock of the defendant pending an order of the court.

(3) The party who obtains the garnishment shall deliver by personal service or by first class mail a copy of the order to the garnishee and to the defendant.

(4) A bank deposit in the name of two (2) or more persons, one (1) of whom is the convicted person, is subject to garnishment.

SECTION 178. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

If a garnishee fails to comply with the terms of the order of criminal garnishment within thirty (30) days after its issuance, the attorney for the Commonwealth may move the court to order the garnishee to show cause why he should not be held in contempt. If the court finds that the failure was willful or grossly negligent, the court shall find the garnishee in contempt and shall award reasonable attorney's fees and costs, in addition to any contempt sanction it imposes.

SECTION 179. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) (a) "Restitution" means any form of compensation paid by a convicted person to a victim for counseling, medical expenses, lost wages due to injury, or property damage and other expenses suffered by a victim because of a criminal act;

  (b) "Reimbursement" means payment of expenses associated with incarceration, including but not limited to medical expenses, food, and lodging;

  (c) "Sinking fund" means the fund created and used by local governments to provide maintenance of jail facilities and capital construction; improvement of law enforcement, jail, and judicial facilities; and other long-term expenditures associated with those areas; and

  (d) "Local government" means any county, urban-county, or charter county government.

(2) Definitions in KRS 441.005 apply to this chapter.

SECTION 180. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) The sentencing court may order a person who is sentenced to a term of incarceration for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense to reimburse the state

or local government for the costs of his incarceration. The reimbursements paid under this subsection shall be credited to the local government sinking fund.

(2) The sentencing court shall determine the amount of incarceration costs to be paid based on the following factors:

(a) The actual per diem, per person, cost of incarceration;

(b) The cost of medical services provided to a prisoner less any copayment paid by the prisoner; and

(c) The prisoner's ability to pay all or part of his incarceration costs.

SECTION 181. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) A local government may require prisoners to make a reasonable copayment in advance of medical treatment received through a regional jail facility. No prisoner shall be denied medical treatment by reason of indigency, but a prisoner may be required to pay for medical treatment as part of any reimbursement order entered by the sentencing court.

(2) Any copayment shall be collected by the jailer or his designee and, after it is properly accounted for, shall be paid to the appropriate local government authority.

SECTION 182. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:

(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and

(b) Restitution to the crime victim as set out in Sections 45 to 47 of this Act.

(2) Sanctions imposed by the sentencing court shall become a judgment of the court.

SECTION 183. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Any prisoner who has completed his sentence in a county or regional jail shall, from the day incarceration ceases and within the time and amount designated by the sentencing court, pay restitution to his victim and reimbursement for his incarceration to the state or local government, in addition to any other monetary and community service sanctions imposed by the sentencing court. The sentencing court may use its contempt sanctions to enforce its orders.

Section 184. KRS 610.345 is amended to read as follows:

(1) When a child is adjudicated guilty of an offense which classifies him as a youthful offender~~[under KRS Chapter 640]~~, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(2) When a child is adjudicated guilty of an offense which would classify him as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him as a youthful offender~~[under KRS Chapter 640]~~, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(3) ***When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon, or physical injury to another person, the court in which the matter is considered shall notify the principal of any public or private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of the facts in the case, not to include the complainant's name.***

(4) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative and counseling personnel, and to any teacher ***or school employee with whom the student may come in contact***~~[to whose class the student has been assigned for instruction]~~. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.

(5)[~~(4)~~] Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

SECTION 185. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

Any person who was found guilty of a felony offense under KRS Chapters 218A, 507, 508, 509, 511, or 513, or KRS 237.040, 514.100, 525.020, 525.030, 527.040, 527.070, 527.100, or theft of a motor vehicle under KRS 514.030, and who was wearing body armor and was armed with a deadly weapon at the time of the offense shall not be granted probation, shock probation, parole, conditional discharge, or any other form of early release.

Section 186. KRS 530.064 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he knowingly induces, assists, or causes a minor to engage in illegal sexual activity***, or in illegal controlled substances activity other than activity involving marijuana***, except those offenses involving minors in KRS Chapter 531 and KRS 529.030.

(2) Unlawful transaction with a minor is a:

- (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
- (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
- (c) Class A felony if the minor so used incurs physical injury thereby.

Section 187. KRS 530.065 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity ***involving marijuana***, illegal gambling activity, or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

Section 188. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "sexual offender" as used in this chapter when he:

- (a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or
- (b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or
- (c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or
- (d) Has been adjudicated guilty of a felony offense under KRS 530.020; or
- (e) Has been adjudicated guilty of a felony offense ***relating to sexual activity*** under KRS 530.064; or
- (f) Has been adjudicated guilty of a felony offense under KRS 531.310.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or department officials, or both, determine that the offender:

- (a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and
- (b) Is likely to benefit from the program.

(3) "Department" is the Department of Corrections.

Section 189. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection (4)(a) of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

- (a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.
- (b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.
- (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the ninety (90) day period.
- (d) Failure to complete the education or treatment program or to pay the amount specified by the court for education

or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection (4)(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection (4)(c)~~[or (d)]~~ of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, treatment means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Human Resources for services as required under this section.

(6) The Cabinet for Human Resources shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Human Resources shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 190. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, ninety days;

(b) For the second offense within a five (5) year period, twelve (12) months;

(c) For a third offense within a five (5) year period, twenty-four (24) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(4)***(d)***~~[(e)]~~.

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 191. KRS 640.040 is amended to read as follows:

(1) No youthful offender who has been convicted of a capital offense who was under the age of sixteen (16) years at the time of the commission of the offense shall be sentenced to capital punishment. A youthful offender may be sentenced to capital punishment if he was sixteen (16) years of age or older at the time of the commission of the offense. A youthful offender convicted of a capital offense regardless of age may be sentenced to a term of imprisonment appropriate for one who has committed a Class A felony and may be sentenced to life imprisonment without benefit of parole for twenty-five (25) years.

(2) No youthful offender shall be subject to persistent felony offender sentencing under the provisions of KRS 532.080 for offenses committed before the age of eighteen (18) years.

(3) No youthful offender shall be subject to limitations on probation, parole or conditional discharge as provided for in KRS 533.060.

(4) Any youthful offender convicted of a misdemeanor or any felony offense which would exempt him from KRS 635.020(2), (3), (4), (5), (6),~~[or]~~ (7)***, or (8)*** shall be disposed of by the Circuit Court in accordance with the provisions of KRS 635.060.

Section 192. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(4)***(d)***~~[(e)]~~ or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

Section 193. The following KRS section is repealed:

610.115 Circumstances permitting court to order further detention of child in custody of Department of Juvenile Justice or cabinet.

Section 194. The Criminal Justice Council is directed to study the costs and benefits to the corrections system and to public safety by the creation of a Class E felony for certain crimes against property. The Council shall report its findings to the Legislative Research Commission by September 1, 1999.

Section 195. The Criminal Justice Council is directed to study the fiscal and public safety effects of involuntary civil commitments for convicted sexual predators. The Council may use the language of 1996 Senate Bill 131 for guidance. The Council shall report its findings to the Legislative Research Commission by September 1, 1999.

Section 196. (1) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, each reference to the Cabinet for Human Resources in the following sections shall be codified as the Cabinet for Health Services: Sections 7, 9, 11, 12, 13, 14, 16, 18, 19, 28, and 80 of this Act.

(2) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (1)(h) of Section 10 of this Act shall be codified as both the Cabinet for Families and Children and the Cabinet for Health Services.

Section 197. Sections 24, 25, 70, and 121 of this Act may be cited as the Sarah Hansen Act.

Section 198. Sections 99 to 110 of this Act take effect December 1, 1998.

Section 199. The provisions of Sections 138 through 155 of this Act shall apply to persons individually sentenced or incarcerated after the effective date of this Act.

Section 200. Sections 139, 141, 150, 151, 152, 153, 154, and 155 of this Act take effect January 15, 1999.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 455** is as follows:

On page 105, line 10, by deleting "*1(a) to (h)*" and inserting in lieu thereof "*(1)(a) to (c)*"; and

On page 113, line 1, by deleting "*, except*"; and

On page 113, by deleting lines 2 and 3 in their entirety and inserting in lieu thereof "*. Programs existing as of the effective date of this section may continue for the purpose of supervising persons granted pretrial diversion prior to the effective date of this section, however no new persons shall be admitted to these programs.*".

The Senate Floor Amendment No. 6 to the Senate Committee Substitute to **HB 455** is as follows:

On page 183, line 22, by deleting " *as determined in Section 157 of this Act*" and inserting in lieu thereof "*, as defined in Section 156 of this Act,*".

The Senate Floor Amendment No. 10 to the Senate Committee Substitute to **HB 455** is as follows:

On page 65, lines 14 to 16, to delete the same and to insert in lieu thereof:

"*(4) A sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510, without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the fiscal court to establish a deputy sheriff merit board.*".

The Senate Floor Amendment No. 15 to the Senate Committee Substitute to **HB 455** is as follows:

On page 106 line 4, after "*solicits*" by deleting the "*,*", inserting "*or*", by deleting the "*,*" after "*entices*", and by inserting "*another person to join a gang, or*" after entices; and

On page 106,.line 5, by deleting the "*,*" after "*intimidates*".

The Senate Floor Amendment No. 23 to the Senate Committee Substitute to **HB 455** is as follows:

On page 216, between lines 5 and 6, by inserting the following:

"Section 198. The requirements of Sections 10 and 11 of House Bill 52 of this 1998 Regular Session, created by Senate Floor Amendment 8 to that bill, apply mandatorily only to deputy sheriff merit boards created after the normal effective date for the 1998 Regular Session. The primary legislative body of a county, in accordance with KRS 70.260(1), in which a deputy sheriff merit board is in existence prior to that date may elect to be subject to these statutes by enacting an ordinance to that effect, which may not then be revoked."; and

By renumbering subsequent sections accordingly.

The Senate Floor Amendment No. 21 to the Senate Committee Substitute to **HB 455** is as follows:

On page 61, line 11, to delete "*is guilty*" and to insert in lieu thereof "*may be found by the sentencing judge to have committed an offense specified below as a result*"; and

On page 61, line 11, by deleting "*who*" and inserting "*if the person*"; and

On page 61, lines 23 to 27, to delete the same, and to insert in lieu thereof:

"*(2) At sentencing, the sentencing judge shall determine if, by a preponderance of the evidence presented at the trial ethnic intimidation was a primary factor in the commission of the crime by the defendant. If so, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.*

(3) The finding that ethnic intimidation was a primary factor in the commission of the crime by the defendant may be utilized by the sentencing judge as the sole factor for denial of probation, shock probation, conditional discharge, or other form of nonimposition of a sentence of incarceration.

(4) The finding by the sentencing judge that ethnic intimidation was a primary factor in the commission of the crime by the defendant may be utilized by the Parole Board in delaying or denying parole to a defendant."; and

On page 62, line 1, to delete the same.

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 455** is as follows:

On page 61, line 12, following "***orientation,***" to insert "***gender, age, disability,***".

The Senate Floor Amendment No. 18 to the Senate Committee Substitute to **HB 455** is as follows:

On page 87, lines 24 to 27, remove the brackets and strikethroughs and delete all new language.

Representative Bowling moved that the House refuse to concur in the Senate Committee Substitute to **HB 455**. Agreed.

HB 74, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 74** is as follows:

On page 1 line 1 through page 3, line 22, by deleting Sections 1 and 2 in their entirety, and by renumbering subsequent sections accordingly; and

On page 4, lines 6, 7, and 8, by deleting all new language; and

On page 4, line 12, by deleting "***(6)***" and by removing the brackets and strikethrough from "(5)"; and

On page 4, line 19, by deleting "***(7)***" and by removing the brackets and strikethrough from "(6)"; and

On page 4, line 21, by deleting "***(8)***" and by removing the brackets and strikethrough from "(7)"; and

On page 4, line 24, by deleting "***(9)***" and by removing the brackets and strikethrough from "(8)"; and

On page 5, line 11, by deleting "***(10)***" and inserting in lieu thereof "***(9)***"; and

On page 5, line 15, by deleting "***(11)***" and inserting in lieu thereof "***(10)***"; and

On page 5, line 17, by deleting "***(12)***" and inserting in lieu thereof "***(11)***"; and

On page 5, line 24, after the "***.***" by inserting the following "***If the trade-in amount is not disclosed in the notarized affidavit, or if an affidavit is not available, the amount included as a trade-in allowance shall be the average trade-in value as listed in the automotive reference manual prescribed by the Revenue Cabinet.***"; and

On page 5, line 26, after "***given***", by inserting "***or if the affidavit does not include all necessary information regarding the retail price***"; and

On page 5, line 27, after "***1.***", by inserting "***For new motor vehicles,***"; and

On page 6, line 3, after the "***2.***", by deleting lines 3 through 6 in their entirety and replacing the language with the following: "***For dealer demonstrator and previous model year motor vehicles, "retail price" shall be seventy-five percent (75%) of the manufacturers suggested retail price with all equipment and accessories, standard and optional***"; and

On page 6, lines 10 and 11, by deleting all new language; and

On page 6, line 12, by deleting "***(c)***"; and

On page 6, line 15, after "manual", by inserting the following: "***. If the value of the motor vehicle does not appear in the automotive reference manual because it is an older vehicle, "retail price" shall be the average-trade in value as determined in paragraph (c) of this subsection***"; and

On page 6, line 16, by deleting "***(d)***" and by removing the brackets and striketrhoughs from "(c)"; and

On page 6, lines 16, 17, and 18, by deleting the new language; and

On page 6, lines 18 through 27 by deleting the opening bracket and strikethroughs; and

On page 6, lines 23 and 27, and page 7,. lines 4 and 8, after the word "of", by inserting "***average trade-in***"; and

On page 7, lines 1 through 11, by deleting the strikethroughs and the closing bracket; and

On page 7, line 12, by deleting "***(e)*** and inserting in lieu thereof "***(d)***"; and

On page 7, line 18, by deleting "***(f)***" and inserting in lieu thereof "***(e) 1.***"; and

On page 7, line 21, after "***miles,***", by inserting "***that are less than eight (8) model years old,***"; and

On page 7, line 27, after "***vehicle,***" by inserting "***or if the affidavit does not include all necessary information regarding retail price,***"; and

On page 7, line 27, by deleting "***established***" and inserting in lieu thereof "***the retail value as listed in the automotive reference manual prescribed***"; and

On page 7, line 27, after "***Cabinet***" by inserting "***, excluding the retail value as listed in the automotive reference manual of any vehicle taken in trade. If the value of the motor vehicle does not appear in the automotive reference manual because it is an older vehicle, "retail price" shall be determined as provided in paragraph (c) of this subsection, substituting***

"retail value" where "trade-in value" is used in that paragraph, and excluding the value of any trade-in as described in this subparagraph;

On page 8, by deleting lines 1 and 2; and

On page 8, after line 2 but before line 3, by inserting the following:

"***2. For used motor vehicles previously registered in Kentucky that are sold in Kentucky, and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, that are eight (8) model years or older, "retail price" means the lesser of the total consideration given, excluding any amount allowed as a trade-in allowance by the seller, if the amount allowed is disclosed in the notarized affidavit, or the average trade-in value given in the automotive reference manual prescribed by the Revenue Cabinet, excluding any amount allowed as a trade-in allowance by the seller. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, or if the affidavit does not include all necessary information regarding retail price, "retail price" shall be the average trade-in value as listed in the automotive reference manual prescribed by the Revenue Cabinet, excluding the trade-in value as listed in the automotive reference manual of any vehicle taken in trade. If the value of the motor vehicle does not appear in the automotive reference manual because it is an older vehicle, "retail price" shall be determined as provided in paragraph (c) of this subsection, excluding the value of any trade-in as described in this subparagraph; and***" and

On page 8, line 6, after "***Cabinet***" by adding the following"***. If the value of the motor vehicle does not appear in the automotive reference manual because it is an older vehicle, "retail price" shall be the average trade-in value as determined under paragraph (c) of this subsection***"; and

On page 9, line 25, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 10, line 16, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 10, line 19, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 13, lines 7 through 10, after the "***(a)***", by deleting all new language and inserting the following in lieu thereof:

"***For a first offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 1 of this Act shall be fined one thousand dollars ($1,000) For a second and each subsequent offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 1 of this Act shall be guilty of a Class D felony.***

(b) For a first offense, any dealer who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 1 of this Act shall be fined one thousand dollars ($1,000). For a second offense, any dealer who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 1 of this Act shall be guilty of a Class D felony."; and

On page 13, line 11, by deleting "***(b)***" and inserting in lieu thereof "***(c)***"; and

On page 13, line 12, after "138.470" by inserting "***that are not referenced in paragraphs (a) and (b) of this subsection***"; and

On page 13, line 12, before "twenty-five" by inserting "***two hundred fifty dollars ($250)***"; and

On page 13, line 12, by placing an opening bracket before "twenty-five", by striking through "twenty-five dollars ($25)", and by placing a closing bracket after "($25)"; and

On page 13, line 13, by before "one" by inserting "***five thousand dollars ($5,000)***", and

On page 13, line 13, by placing an opening bracket before "one", by striking through "one thousand dollars ($1,000)", and by placing a closing bracket after "($1,000)"; and

On page 14, line 15, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 14, line 26, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 16, line 3, by deleting "***3***" and inserting in lieu thereof "***1***"; and

On page 17, line 5, by deleting "***3***" and inserting in lieu thereof "***1***"; and;

Beginning on page 17, line 8 through page 19, line 16, by deleting Section 9 in its entirety, and by renumbering subsequent sections accordingly; and

On page 19, line 25, by deleting "3 to 8" and inserting in lieu thereof "1 to 6".

Representative Collins moved that the House refuse to concur in Senate Floor Amendment No. 1 to **HB 74**. Agreed. Representative Cave raised a point of information and asked if two or more had asked for a roll call on Senate Floor Amendment No. 1 to **HB** 74. The Speaker said that he did not hear two members ask for a roll call on Senate Floor Amendment No. 1 to **HB 74**.

Representative Cave inquired if the rules were suspended. The Speaker ruled that the rules were not suspended but there was no objection to a vote by voice vote. Representative Lindsay stated that the proper procedure is appeal of the Chair.

Report On Enrolled Bills

HB 246 delivered to the Senate and signed by the President. Delivered to the Secretary of State on March 31, 1998 at 11:02 a.m.

Orders of the Day (Continued)

HB 475, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 475** is as follows:

On page 1, line 24, after "***shall***" by inserting "***submit***" and by deleting "***make payment of***"; and

On page 3, line 26, by deleting "***make***" and inserting in lieu thereof "***submit***"; and

On page 3, line 26, by moving the "]" and placing it after and striking through "payment of"; and

On page 4, line 16, by deleting "***the insurer shall be subject to***"; and

On page 4, line 17, after "***designated***" by inserting "***shall be due for submission as provided***".

Representative Riggs moved that the House concur in Senate Committee Amendment No. 1 to **HB 475**. Agreed.

Representative Riggs moved that **HB 475**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 31, 1998 roll call on **HB 475** - Appendix.) **HB 475**, as amended by the Senate, was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 475**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 161** is as follows:

AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Human Resources that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment ***or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. sec. 651 et seq.***; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated,[~~or~~] payments on the child support arrearage are being made in accordance with a court or administrative order***, or the person complies with the subpoena or warrant relating to paternity or child support***. Before the license may be reinstated, proof of elimination of the child support arrearage ***or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16)*** from the ***court where the action is pending or the*** Cabinet for Human Resources shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Human Resources and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 2. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employees, or to any board or official functioning under this chapter which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information ***received or transmitted***[~~obtained~~] shall not be published or be open for public inspection***, including instances in which the agency determines reasonable cause to believe evidence of domestic violence or child abuse and the disclosure of the information could be harmful to the custodial parent or the child of the parent,*** except that necessary information and records may be furnished to:

(a) Public employees in the performance of their duties in connection with the administration of the public assistance or child support enforcement program pursuant to Part D of Title IV of the Social Security Act;

(b) All law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the General Assembly of the Commonwealth of Kentucky and the Congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator;

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; provided; that any names or information obtained through access to such records shall not be used for any commercial or political purposes; and

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employee of the cabinet of information obtained pursuant to KRS 205.835 is prohibited.

Section 3. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) ***In the case where the noncustodial parent provides health care coverage and changes employment, to accept a notice of transfer of the provision to enroll from the Cabinet for Human Resources, the custodial parent or the noncustodial parent, and to enroll the child in the noncustodial parent's health care coverage, unless the noncustodial parent contests the notice pursuant to KRS Chapter 13B;***

(3) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for Human Resources;

(4)[~~(3)~~] Not to disenroll or eliminate coverage of a child unless:

(a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or

(b) The employer has eliminated family health coverage for all of its employees; and

(5)[~~(4)~~] To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 4. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for Human Resources;

(2) "Secretary" shall mean the secretary of the Cabinet for Human Resources;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay ***spousal support that applies to spouses with a child even if child support is not part of the order***[~~maintenance when included in the child support order~~] or when ***spousal support is*** assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit

information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, ***bonuses, worker's compensation awards attributable to lost wages, retirement and pensions, interest and disability,*** earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from ***public assistance under Title IV-A of the Social Security Act***[~~aid to families with dependent children~~], or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 5. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for Human Resources.

(2) The duties of the division of child support ***enforcement***, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to ***669***[~~667~~];

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) ***Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;***

(e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment of paternity form;

(f)[~~(e)~~] Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;[~~ and~~]

(g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;

(h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;

(i)[~~(f)~~] Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212*;*

(j) Administratively establish child support orders which shall have the same force and effect of law;

(k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;

(l) Impose a penalty for failure to comply with an administrative subpoena;

(m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;

(n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and

(o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.

(3) *Effective September 30, 1999,* the cabinet shall establish a system to receive and process all child support payments. The system shall include *existing*[~~compatible~~] computer systems to record the payments. *The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.*

(4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.

(5) After the establishment of the *disbursement unit*[~~compatible computer~~] child support collection system, the cabinet or its designee[~~,~~] shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(6)[~~(4)~~] Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is cancelled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(7)[~~(5)~~] Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of *the individuals for* whom services are sought.

(8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars ($5,000). After notification to the obligor owing an arrearage amount of five thousand dollars ($5,000), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

(9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after one (1) year of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

(10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.

(11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.

(12) Except for cases administered by the cabinet under 42 U.S.C. sec. 651 et seq. which shall be afforded the appeal process set forth by subsection (3) of Section 24 of this Act, an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.

(13) A dispute hearing shall be conducted by the cabinet in accordance with Section 24 of this Act. The only basis for a dispute hearing shall be a mistake in fact.

(14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 10 of this Act shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.

(15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

Section 6. KRS 205.720 is amended to read as follows:

(1) By applying for Title IV-D services or accepting public assistance for or on behalf of a needy dependent child, the recipient shall be deemed to have made an assignment to the cabinet of the right to any child support or maintenance owed up to the amount of public assistance paid by the cabinet to the recipient, including amounts which have accrued at the time the assignment is made ***between October 1, 1997, and September 30, 2000***. The cabinet shall be subrogated to the right of the child or the person having custody to collect and receive all child support payments and to initiate any support action existing under the laws of this state.

(2) ***The cabinet shall distribute all child support payments and assigned arrearages as required by 42 U.S.C. sec. 651 et seq.***

(3) When Title IV-D services on behalf of a dependent child are terminated, current and past due court-ordered or administratively-determined child support owed the child shall be payable to the physical custodian of the dependent child for the period of time the dependent child was in the physical custody of that custodian.

Section 7. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving ***public assistance under Title IV-A of the Social Security Act***~~[aid to families with dependent children (AFDC)]~~ benefits shall also be available to individuals not receiving ***public assistance***~~[AFDC]~~ benefits, upon application by the individual with the cabinet.

(2) The cabinet shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.

(3) Except as provided in subsection (2) of this section, the cabinet may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

Section 8. KRS 205.730 is amended to read as follows:

(1) ***Unless the cabinet has reason to believe allegations of child abuse or domestic violence and that the disclosure of the information could be harmful to the custodial parent or the child of the parent, the cabinet shall attempt to locate a noncustodial parent of a child described in KRS 205.725, and establish or set an amount of modification, and enforce the child support obligation.***

(2) Upon the request of a putative father and for the purpose of establishing paternity only, the cabinet shall attempt to locate a custodial parent of a child described in KRS 205.712 if the cabinet finds the action to be in the best interest of the child.

(3) If paternity is established for a child described in KRS 205.725 as a result of the location of the custodial parent, the cabinet shall establish a child support obligation or a modification for a child support obligation and shall enforce the child support obligation if the cabinet finds the enforcement of the order to be in the best interest of the child[~~The cabinet shall attempt to locate absent responsible parents of children described in KRS 205.725, and upon request of a putative father, the cabinet shall attempt to locate custodial parents for the purpose of establishing paternity when the cabinet finds the attempt to be in the best interest of the child~~].

(4)[~~(2)~~] The cabinet shall serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, and, upon request of a putative father, the location of a custodial parent, in order to establish paternity, to answer interstate inquiries concerning deserting parents or custodial parents, to coordinate and supervise any activity on a state level in search of an absent parent or custodial parent, to develop guidelines for coordinating activities of any governmental agency in providing information necessary for location of absent parents or custodial parents, ***to obtain information on the location of parents to enforce state and federal laws against parental kidnapping and to make or to enforce a child custody or visitation order,*** and is to process all requests received from an initiating county or an initiating state which has adopted the Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act.

(5)[~~(3)~~] In order to carry out responsibilities imposed under this chapter, the cabinet may request information and assistance from any governmental agency. All state, county, and city agencies, officers, and employees shall cooperate with the cabinet in determining the location of parents who have abandoned or deserted children and shall cooperate with the cabinet in determining the location of custodial parents for the purpose of establishing paternity with all pertinent information relative to the location, income[~~,~~] and ***assets,*** property***, and debt*** of ***the***[~~such~~] parents, notwithstanding any provision of state law making ***the***[~~such~~] information confidential.

(6)[~~(4)~~] The information which is obtained by the cabinet shall only be available to such governmental agency or political subdivision of any state for purposes of locating an absent parent to enforce the parent's obligation of support and for the purposes of location of custodial parents to establish paternity of putative fathers.

Section 9. KRS 205.735 is amended to read as follows:

All business concerns doing business in this state, to the extent that they have employees working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, shall provide the cabinet with the following information upon certification by the secretary that the information is for the purpose of locating a parent***, and the establishment, modification, and enforcement of a child support and medical support order,*** and that the information obtained will be treated as confidential information by this cabinet or the agency or cabinet of any other state which administers the Child Support Enforcement Program pursuant to Part D of Title IV of the Social Security Act for the other state: full name, Social Security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

Section 10. KRS 205.745 is amended to read as follows:

(1) A child support lien ***or levy*** in favor of the cabinet shall ***be enforceable against***[~~attach to~~] all ***real***[~~personal~~] and ***personal***[~~real~~] property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. ***In accordance with subsection (4) of this section, the lien or levy shall have first priority over any other lien assigned by any other agency, association, or corporation.***

(2) The cabinet shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the cabinet shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee pursuant to KRS Chapter 64.

(3) The cabinet may force the sale of the property of the parent subject to the lien or levy for the payment of assigned

child support, and distribute the proceeds in accordance with 42 U.S.C. sec. 651 et seq.

(4) The cabinet's lien or levy shall be superior to any mortgage or encumbrance created after the notice of lien or levy is recorded. The cabinet shall give full faith and credit to child support liens or levies created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens or levies shall subordinate to any child support lien or levy of the cabinet that relates to the same obligor and property.

(5) The cabinet shall not enforce the lien by foreclosure action on a principal residence of an obligor if to do so would deprive a minor child of the obligor of a homestead, unless the failure to enforce the lien by foreclosure would result in the loss of the home of the minor child of the custodial parent.

(6) In the event another lienholder initiates a foreclosure action against the property of the obligor, the cabinet may protect its interest in the property by filing an answer counterclaim and cross-claim and participate in the proceeds of any sale of the property as its interests may appear.[~~The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.~~

~~(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the Cabinet for Human Resources, claims a lien in the amount of .... plus all unpaid child support hereafter accruing, including interest, until paid in full on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the Cabinet for Human Resources."~~]

(7)[~~(3)~~] The cabinet shall notify the obligor of the filing of its claim of lien ***or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.***

(8) Liens or levies resulting from actions provided by this section shall be inapplicable to an account maintained at a financial institution that is or may be subject to the data match system established by Section 43 of this Act, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder..

Section 11. KRS 205.768 is amended to read as follows:

(1) The cabinet shall ***periodically*** make information available to consumer reporting agencies[~~ upon their request~~] regarding the amount of overdue support owed by a parent[~~ in cases where the overdue support exceeds one thousand dollars ($1,000)~~]. Amounts[~~ less than one thousand dollars ($1,000)~~] may be reported by the cabinet ***to***[~~ upon request by~~] the ***certified*** consumer reporting agency.

(2) The cabinet shall provide advance notice to the obligor concerning the proposed release of the information to the ***certified*** consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The cabinet may charge the ***certified*** consumer reporting agency a fee not to exceed the actual cost of providing the information.

Section 12. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of a Class A misdemeanor.

(2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.

(3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.

(4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.

(5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit sharing trust company, or other financial institution failing to comply with provisions of subsection (11) of Section 22 of this Act, shall be subject to a penalty of five hundred dollars ($500) for each failure to comply.

Section 13. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local

registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Human Resources.[~~The local registrar shall transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the state registrar.~~] When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

(5) The local registrar shall provide for voluntary acknowledgment of paternity services in accordance with 42 U.S.C. sec. 651 et seq., and transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the State Registrar.

Section 14. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for herein, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written ***materials and oral, audio, or video*** materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written ***and an oral, audio, or video*** description of the rights and responsibilities***, the alternatives to, and the legal consequences*** of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) ***If the parents wish to acknowledge paternity,*** require the voluntary acknowledgment of paternity obtained through the hospital based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment of paternity ***forms designated by the Office of Vital Statistics shall be the only documents***[~~form shall be the only document~~] having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Human Resources shall:

(a) Provide to all public and private birthing hospitals in the state written ***materials and audio or video*** materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written ***description and an audio or video*** description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 15. KRS 213.071 is amended to read as follows:

(1) The state registrar shall establish a new certificate of birth for a person born in the Commonwealth when the state registrar receives the following:

(a) A report of adoption as provided in KRS 213.066 or a report of adoption prepared and filed in accordance with the laws of another state or foreign country or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) A request that a new certificate be established as prescribed by administrative regulation and the evidence as required by administrative regulation proving that the person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of the person in which case the surname of the child shall be changed in accordance with KRS 213.046.

(2) If paternity is determined in a court action, the clerk shall report the findings of the court to the state registrar on forms prescribed and furnished for that purpose. The reports shall be made no later than the fifteenth of the month following the date of the order.

(3) If a new certificate is established, the actual place and date of birth shall be shown except in the case of adoption. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate, when issued, shall not contain the place of birth, hospital, or name of the doctor or midwife. This information shall be given only by an order of the court in which the child was adopted. If the child was born in the Commonwealth, the new birth certificate shall show the residence of the adoptive parents as the birthplace of the child, and this shall be deemed for all legal purposes to be the birthplace of the child.

(4) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, paternity determination, or paternity acknowledgement shall not be subject to inspection except upon order of a court of competent jurisdiction.

(5) If any judgment under this section is reversed, amended, modified, or vacated in any particular, the clerk of the court shall notify the state registrar of the reversal or modification, and the state registrar shall make the changes, if any, in the records as may be necessary by the reversal or modification***, or if the voluntary acknowledgment of paternity pursuant to subsection (4) of Section 14 of this Act is rescinded, the state registrar shall make the changes, if any, in the records as may be necessary by the reversal, modification, or rescission of the voluntary acknowledgment of paternity***.

(6) If a new certificate of birth is established by the state registrar, all copies of the original certificate of birth on file in the local health department shall be sealed and forwarded to the state registrar as the state registrar shall direct.

(7) If no birth certificate is on file for an adopted child born in Kentucky, the state registrar shall prepare a certificate of birth in accordance with information furnished by the clerk of the Circuit Court which issued the adoption order. The state registrar shall furnish the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section.

Section 16. KRS 403.090 is amended to read as follows:

(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the Circuit Court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. The appointed person shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

(2) ***Except for those cases administered pursuant to 42 U.S.C. sec. 651 et seq.,*** it shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the Circuit Court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court***.***~~[, and]~~ The friend of the court shall see that the payments***, except for those cases administered pursuant to 42 U.S.C. sec. 651 et seq.,*** are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of District Court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the Circuit Court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of District Court as reimbursement for the expenses incurred by the juvenile session of District Court in connection with

the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. The friend of the court shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(3) ***In the event that a waiver is granted under 42 U.S.C. sec. 651 et seq., allowing payment of wage withholding collections to be directed to the friend of the court, an obligor shall be given the option of payment either to the friend of the court or the centralized collection agency.***

(4) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable the friend of the court to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody, and maintenance of the children. The friend of the court shall make a report to the trial judge, at a time fixed by the judge, setting forth recommendations as to the care, custody, and maintenance of the children. The friend of the court may request the court to postpone the final submission of any case to give the friend of the court a reasonable time in which to complete the investigation.

(5)[~~(4)~~] The friend of the court shall have authority to secure the issuance by the court of any order, rule, or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing duties under subsection ***(4)***[~~(3)~~] of this section the friend of the court shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses. In the case of depositions taken on interrogatories, the friend of the court may file cross interrogatories. The friend of the court shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when the friend of the court deems it necessary for the protection of the minor children, or when the friend of the court may be directed by the court to attend.

(6)[~~(5)~~] The friend of the court shall not directly or indirectly represent any party to a divorce action except as herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, may proceed to enforce the payment of the allowance made to the spouse also.

(7)[~~(6)~~] Where a friend of the court is acting as a designee of the cabinet pursuant to KRS 205.712 and an applicant for Title IV-D services pursuant to KRS 205.721 has requested a modification of an existing child support order pursuant to a divorce or other judicial order, the friend of the court shall seek the modification, providing all jurisdictional requirements are met. The friend of the court's representation shall extend only for the limited purpose of seeking a modification of an existing child support order consistent with the provisions of KRS 403.212.

(8)[~~(7)~~] The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the appointing judge or judges.

Section 17. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

(a) The age, occupation, ***social security number,*** and residence of each party and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;

(b) The date of the marriage and the place at which it was registered;

(c) That the parties are separated and the date on which the parties separated;

(d) The names, ages, ***social security numbers,*** and addresses of any living infant children of the marriage, and whether the wife is pregnant;

(e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and

(f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 18. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g)***, and the social security numbers of all parties subject to the motion***. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) ***If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.***

(5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

(6)[~~(5)~~] A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 19. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their adjusted gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(b) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) ***The court order shall include the social security numbers of all parties subject to a support order.***

(10)In any case administered by the Cabinet for Human Resources, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Human Resources may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by Section 2 of this Act.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Human Resources shall transfer notice of the provision for coverage for the child to the employer which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt for attachment or assignment for the payment of current child support or owed or to be owed child support.

Section 20. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, ***retirement and pension funds,*** commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to ***public assistance as defined under Title IV-A of the Social Security Act***[~~Aid to Families with Dependent Children (AFDC)~~], and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child;
2. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
3. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
4. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guidelines table is as follows:

COMBINED
MONTHLY
ADJUSTED
PARENTAL

GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
100	60	60	60	60	60	60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477

4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387

9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758
12,600	1,119	1,685	2,110	2,407	2,594	2,769
12,700	1,123	1,692	2,118	2,416	2,604	2,779
12,800	1,128	1,699	2,127	2,426	2,614	2,790
12,900	1,132	1,705	2,135	2,435	2,624	2,801
13,000	1,137	1,712	2,143	2,444	2,634	2,811
13,100	1,141	1,719	2,151	2,454	2,645	2,822
13,200	1,146	1,725	2,159	2,463	2,665	2,832
13,300	1,150	1,732	2,167	2,472	2,665	2,843
13,400	1,154	1,738	2,175	2,481	2,675	2,854
13,500	1,158	1,745	2,183	2,491	2,685	2,864
13,600	1,163	1,751	2,191	2,500	2,695	2,875
13,700	1,167	1,758	2,199	2,509	2,705	2,885
13,800	1,172	1,765	2,208	2,519	2,715	2,896
13,900	1,176	1,771	2,216	2,528	2,725	2,907
14,000	1,181	1,778	2,224	2,537	2,735	2,917

14,100	1,185	1,785	2,232	2,547	2,746	2,928
14,200	1,190	1,791	2,240	2,556	2,756	2,938
14,300	1,194	1,798	2,248	2,565	2,766	2,949
14,400	1,198	1,804	2,256	2,574	2,776	2,960
14,500	1,202	1,811	2,264	2,584	2,786	2,970
14,600	1,207	1,817	2,272	2,593	2,796	2,981
14,700	1,211	1,824	2,280	2,602	2,806	2,991
14,800	1,216	1,831	2,289	2,612	2,816	3,002
14,900	1,220	1,837	2,297	2,621	2,826	3,013
15,000	1,225	1,844	2,305	2,630	2,836	3,023

Section 21. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for Human Resources or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for Human Resources, or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for Human Resources[~~ or the domestic relations clerk of the court or other officer designated by the court to receive the payment,~~] that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

Section 22. KRS 405.430 is amended to read as follows:

(1) ***When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.***

(2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

(3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed. The request shall be supported by a sworn statement of the party, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii).

(4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(5)[~~(2)~~] The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.

(6)[~~(3)~~] ***When in the best interest of the child,*** the cabinet may ***review and adjust***[~~modify~~] a parent's child support obligation or child care obligation as established by the cabinet*, upon a request of the cabinet when an assignment has been made,*[~~ on its own~~] or upon *either*[~~a~~] parent's petition *if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with Section 20 of this Act. The cabinet shall notify parents at least once every three (3) years of the right to a review*[~~, but only upon a finding of the conditions described for judicial modification of a support order~~].

(7)[~~(4)~~] In establishing or modifying a parent's monthly child support obligation, the cabinet may *use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with Section 20 of this Act. The cabinet shall* utilize information*, including financial records,* about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(8) In cases in which past due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

(9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.

(10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.

(12)[~~(5)~~] No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report,[~~ or~~] document*, or financial record* used in determining child support or child care obligations.

(13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal district court or appropriate state court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:

(a) The sum of the greater of one thousand dollars ($1,000) for each act of unauthorized disclosure of financial records; or

(b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus

(c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.

Section 23. KRS 405.060 is amended to read as follows:

(1) Any sale or conveyance made to a purchaser with notice or for the benefit of any religious society, if made in fraud or hindrance of the right of wife or child to maintenance, shall be void as against the wife or child.

(2) In any case where an obligor transfers income or property to avoid payment to a child support creditor, the transfer shall be indicia of fraud. Indicia of fraud creates a prima facie case that the transfer of income or property was to avoid payment of child support. Indicia of fraud shall be set forth by administrative regulation.

(3) In any case in which the cabinet knows of a transfer by a child support obligor with respect to which a prima facie case is established, the cabinet shall:

(a) Seek to void the transfer; or

(b) Obtain a settlement in the best interests of the child support creditor.

Section 24. KRS 405.450 is amended to read as follows:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. The dispute hearing proceedings shall be conducted in accordance with KRS Chapter 13B.

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the final order.

(3) The parent or the cabinet may file an appeal in the Circuit Court in the county of the parent's or the child's residence in accordance with KRS Chapter 13B.

(4) The parent shall, during the pendency of his appeal from the final order, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

(5) If the cabinet elects to conduct the modification review as specified in subsection (6) of Section 22 of this Act, either party may contest the adjustment to the obligation amount within thirty (30) days after the date of the notice of the adjustment by requesting a review under subsection (1) of this section, and if appropriate, a request for adjustment of the order as permitted by this chapter.

Section 25. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for Human Resources, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a ***support order was issued in the state prior to October 1, 1994, and in which a*** parent is required to pay court ordered or administratively determined child support, medical support, maintenance, and medical support insurance, ***and*** wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any***, without the need for a judicial or administrative hearing***.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer***, without the need for a judicial or administrative hearing***.

(4) ***The cabinet shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer***[~~Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings~~]. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will ***continue***[~~occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding~~].

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or Family Court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively-ordered or judicially-ordered medical support obligation.

(9) ***The employer shall forward to the Cabinet for Human Resources that portion of salary or wages of the parent due***

and to be due in the future as will be sufficient to pay the child support amount ordered.

(10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(11)[~~(10)~~] Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(12)[~~(11)~~] No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(13)[~~(12)~~] The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(14)[~~(13)~~] Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 26. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for Human Resources or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. ***Bills for testing, pregnancy, and childbirth without requiring third party foundation testimony shall be regarded as prima facie evidence of the amount incurred.*** An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant herein authorized. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for Human Resources or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 27. KRS 406.025 is amended to read as follows:

(1) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father, obtained through the hospital-based paternity program, and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order***[~~one (1) year following the child's birth~~].

(2) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father obtained outside of the hospital and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order***[~~one (1) year~~] following the date of signatures on the notarized affidavit.

(3) Pending an administrative or judicial determination of parentage, or upon a signed, notarized, voluntary acknowledgment of paternity form having been transmitted by the local registrar and received by the Office of Vital Statistics, a temporary support order shall be issued upon motion of any party if paternity is indicated by genetic testing or other clear and convincing evidence.

(4) The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(5) The court shall, within fourteen (14) days from the filing of the motion, order an amount of temporary child support based upon the child support guidelines as provided by Section 20 of this Act. The ordered child support shall be retroactive to the date of the filing of the motion to move the court to enter an order for temporary child support without written or oral notice to the adverse party. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by subsection (2)(a) of Section 18 of this Act. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order

entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(6) Unless good cause is shown, court or administratively ordered child support shall continue until final judicial or administrative determination of paternity.

Section 28. KRS 406.035 is amended to read as follows:

(1) If paternity has been determined under the provisions of subsection (1) or (2) of KRS 406.021, the court shall make a written order of paternity.

(2) ***Information concerning this action received or transmitted shall not be published or be open for public inspection, including where the cabinet determines reasonable evidence of domestic violence or child abuse, if the disclosure of the information could be harmful to the custodial parent or the child of the parent.***

(3) Such orders are to be kept separately and shall not be open for public inspection except that they may be inspected by employees of governmental agencies in the performance of their duties, all law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges, and anyone else under order of the court expressly permitting inspection. Either party to an action under this chapter or attorneys of a party to an action under this chapter shall be permitted to inspect the order entered in the action to which he is a party.

Section 29. KRS 406.061 is amended to read as follows:

To the extent necessary to conform to federal law, 42 U.S.C. sec. 666(a)(5)(I), except to the extent that it is required under Section 7 of the Constitution of Kentucky, no party shall be entitled to a trial by a jury in a paternity action[~~Either party to an action commenced under the provisions of this chapter may demand a jury trial of the facts in issue, or the court upon its own motion may grant a jury trial, in accordance with the provisions of the Rules of Civil Procedure~~].

Section 30. KRS 406.091 is amended to read as follows:

(1) ***An unchallenged acknowledgment of paternity shall be ratified under KRS Chapter 213 without the requirement for judicial or administrative proceedings.*** If a genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) ***In a contested paternity case, the child and all other parties shall submit to genetic testing upon a request of any such party which shall be supported by a sworn statement of the party, except for good cause.***

(3) Genetic test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(4)[~~(3)~~] Any objection to genetic testing results shall be made in writing to the court within twenty (20) days ***of receipt of genetic test results***[~~before a hearing at which the results may be introduced into evidence~~]. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(5)[~~(4)~~] Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(6)[~~(5)~~] A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(7)[~~(6)~~] ***Except where the Cabinet for Human Resources administratively orders genetic testing,*** all costs associated with genetic testing shall be paid by the parties in proportions determined by the court.

(8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

Section 31. KRS 427.120 is amended to read as follows:

No part of any police or firefighters' pension fund established in a city of the first, second or third class shall, before or after its order for distribution to any person entitled thereto, be seized or levied upon by any writ or decree for the payment of any debt, claim or judgment against the beneficiary of the fund***, except for the payment of court or administratively ordered current child support, or child support owed, or to be owed***.

Section 32. KRS 427.125 is amended to read as follows:

No portion of a pension fund created under KRS 95.761 to 95.785 shall, before or after its order for distribution by the board of trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory, or other order, or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund, ***except for court or administratively ordered child support, or owed or to be***

owed child support, but said fund shall be held and distributed for the purpose of KRS 95.761 to 95.785, and for no other purpose whatever.

Section 33. KRS 67A.620 is amended to read as follows:

The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, garnishment, execution, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding***, except for court or administratively ordered current child support, or owed child support, or to be owed child support***.

Section 34. KRS 95.620 is amended to read as follows:

(1) Except ***for court or administratively ordered current child support, or owed child support, or to be owed child support, and except*** as provided in KRS 65.156 and subsections (2), (3) and (4) of this section, the policemen's and firefighters' pension fund in cities of the third or fourth class shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982, and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 35. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations ***and child support orders for current, owed, or to be owed child support,***~~[orders]~~ issued by a court ***or administrative agency*** shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 36. KRS 161.700 is amended to read as follows:

(1) The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter***, and except for court or administratively ordered current child support, owed child support, or to be owed child support***. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance,

accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 37. KRS 95.878 is amended to read as follows:

Except for court or administratively ordered current child support, owed child support, or to be owed child support, the right to a retirement annuity, disability annuity, survivors annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

SECTION 38. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that requirements relating to child support or paternity established by KRS Chapters 205, 403, 405, 406, and 407 shall be in compliance with the provisions of 42 U.S.C. sec. 651 et seq.

SECTION 39. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall have authority to issue an administrative subpoena commanding information and records relating to the establishment, enforcement, and collection of child support.

(2) All public and private entities including financial institutions shall comply with a subpoena issued under this section within a reasonable time period. Financial institutions may deduct twenty dollars ($20) from the account on which the subpoenaed information has been issued.

(3) The cabinet may enforce compliance by filing an action in the Franklin Circuit Court.

(4) The subpoena shall be issued by a person designated by the secretary.

SECTION 40. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall request information from a certified consumer reporting agency only when a full credit report is needed for the purpose of establishing an individual's capacity to make child support payments or to determine the obligation amount, and paternity has been established or acknowledged.

(2) The cabinet shall provide at least ten (10) days prior notice by certified mail to the obligor whose report shall be requested from a certified consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law, and 15 U.S.C. sec. 1681(i).

  (a) The report will be kept confidential and be used solely for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of the payments; and

  (b) The report will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.

(3) Methods by which an obligor may contest the accuracy of the information shall be set forth by administrative regulations promulgated by the cabinet.

SECTION 41. A NEW SECTION OF KRS 405.405 TO 405.520 IS CREATED TO READ AS FOLLOWS:

(1) An employer or labor organization in the Commonwealth of Kentucky shall provide information to the Cabinet for Human Resources when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the secretary of human resources.

(2) The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:

  (a) The employee's name, address, and social security number; and

  (b) The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers.

(3) An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the Cabinet for Human Resources as prescribed by administrative regulation promulgated by the Cabinet for Human Resources in accordance with KRS Chapter 13A.

(4) The Cabinet for Human Resources shall enter all new hire information into the database of the cabinet within five (5) business days.

(5) An employer shall not be required to report the information when the hiring, rehiring, or returning to work involves:

  (a) An employee to whom the employer pays wages of less than three hundred dollars ($300) each month; or

(b) An employee who is under eighteen (18) years of age.

(6) The Cabinet for Human Resources may promulgate administrative regulations in accordance with KRS Chapter 13A if the Cabinet for Human Resources determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the cabinet under this section.

(7) The Cabinet for Human Resources shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.

(8) If the employer fails to report as required by this section, the Cabinet for Human Resources shall give the employer written notice of the provisions of this section, including the penalty for failure to report.

(9) If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the Cabinet for Human Resources shall send a second written notice.

(10) If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the Cabinet for Human Resources shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars ($250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the Cabinet for Human Resources. No fine shall be imposed for any period of less than one (1) full calendar month.

(11) The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the Cabinet for Human Resources on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the Cabinet for Human Resources shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 42. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) Financial institutions doing business in the Commonwealth shall enter into cooperative agreements with the cabinet or its designee to operate a data match system. Pursuant to the agreements, the financial institution shall be required to provide identifying information each calendar quarter for each obligated parent who maintains an account at the institution and who owes an arrearage, and who shall be identified by the cabinet.

(2) The cooperative agreement shall include provisions for financial institutions to encumber or surrender assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 48 of this Act.

(3) The financial institution shall be paid a fee for conducting data matches from the obligor's account, not to exceed the actual cost.

(4) No liability shall arise for the Commonwealth or the financial institution under this section with respect to any disclosure of financial records for the establishment, modification, or enforcement of a child support obligation of the individual.

(5) The financial institution shall not be liable for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the cabinet, for any other action taken in good faith to comply with the requirement of this section.

(6) "Financial institution" means:

- *(a) A depository institution and an institution-affiliated party as defined by 12 U.S.C. sec. 1813(c) and (u);*
- *(b) Any federal or state credit union, including an institution-affiliated party of that credit union, as defined by 12 U.S.C. sec. 1752 and 12 U.S.C. sec. 1786(r);*
- *(c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.*

(7) The cabinet may promulgate administrative regulations to implement the requirements of this section.

SECTION 43. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall design, develop, implement, and operate a wage reporting and financial institution match system for the purpose of identifying the financial assets of individuals as identified by cabinet agencies, for the purpose of administering the child support enforcement program of the Commonwealth. The Cabinet for Human Resources may promulgate administrative regulations to implement this section.

(2) Each financial institution in the Commonwealth shall enter into an agreement with the Cabinet for Human Resources to develop and operate a data match system to facilitate identification of financial assets of individuals identified by cabinet agencies for the purpose of administering the child support enforcement programs of the

Commonwealth.

SECTION 44. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

The cabinet may coordinate with other state agencies and cabinets to develop a system for the effective and efficient collection of child support payments.

SECTION 45. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

No employee or agent of the Commonwealth shall divulge any information referred to in KRS 205.715 to 205.800, except in the manner prescribed in KRS 205.715 to 205.800 to any public or private agency or individual; provided, however, that information may be disclosed and shared by and between any employee of the Cabinet for Human Resources and any designee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs included in the reporting system. Unauthorized disclosure of any information shall be a violation that is punishable by a fine of one hundred dollars ($100) per offense; except that the unauthorized release of the information about any individual shall be a separate offense from information released about any other individual.

SECTION 46. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 205.715 to 205.800 shall be construed to prevent the release by the Cabinet for Human Resources of wage and financial institution information data to the United States Social Security Administration or the agencies of other states who administer federally funded welfare and unemployment compensation programs.

SECTION 47. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) A financial institution furnishing a report or providing asset information of an individual owing past due support to the Cabinet for Human Resources under either subsection (1) or subsection (2) of Section 43 of this Act shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the Cabinet for Human Resources. An institution may disclose to its depositors or account holder that under the financial institution match system the Cabinet for Human Resources has the authority to request certain identifying information on certain depositors or account holders.

(2) If a financial institution willfully violates the provisions of this section by releasing asset information of an individual owing child support to the Cabinet for Human Resources, the institution shall pay to the Cabinet for Human Resources the lesser of one thousand dollars ($1000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(3) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the Cabinet for Human Resources under Section 43 of this Act, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list furnished by the financial institution to the Cabinet for Human Resources, or in a report furnished by the financial institution to the Cabinet for Human Resources.

(4) Regardless of whether the action was specifically authorized or described in KRS 205.715 to 205.800 or an agreement, a financial institution shall not be liable for providing or disclosing of any information; for encumbering, holding, refusing to release, surrendering or transferring any account balance or asset; or any other action taken by a financial institution pursuant to this Act or agreement as required by Section 43 of this Act.

(5) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to KRS 205.715 to 205.800 or the agreement and shall not be liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders. The Cabinet shall notify, not less than annually, affected depositors or accountholders who have not otherwise received notification.

(6) A financial institution may charge an account levied on by the Cabinet for Human Resources a fee of not more than twenty dollars ($20) which may be deducted from the account prior to remitting any funds to the Cabinet for Human Resources.

SECTION 48. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) When the cabinet determines that the name, record address, and either social security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the social security number or taxpayer identification number of a noncustodial parent who owes past due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account

based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Human Resources for past due child support shall have first priority over any other lien or levy issued by the Revenue Cabinet or any other agency, corporation, or association.

SECTION 49. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) An interstate lien may be created and a notice of interstate lien may be filed on all of an obligor's real and personal property that is located in another state to enforce a child support obligation which has been judicially or administratively established in the Commonwealth. The lien shall be filed in the appropriate offices of the state or county where the property of the obligor is located. All aspects of the lien, including its priority and enforcement, are governed by the law of the state where the property is located and shall remain until released by the authorized agent of the party which filed the lien, or in accordance with the laws of the state of filing.

(2) A lien to enforce a child support obligation which is created in another state shall be enforceable against all real and personal property of the obligor located in this state upon the filing of a notice of interstate lien with the county clerk of any county or counties in which the obligor has interest in property, and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the party which filed the notice of interstate lien shall disclose the specific amount of liability to any interested party legally entitled to that information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county. The lien shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien shall attach to all interest in the real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee of ten dollars ($10) for filing the lien and the same fee for releasing the lien.

(3) A child support lien created in another state shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance created after the notice of interstate lien is recorded; however, it shall be subordinate to any child support lien which has been filed by the cabinet as to the same obligor and property.

(4) The authority by which the child support lien is created in another state and filed in this state shall be certified on the notice of interstate lien by a person who is authorized to certify on behalf of the party that is filing the notice of interstate lien.

(5) The secretary of the cabinet may promulgate administrative regulations under the provisions of KRS Chapter 13A to implement this section.

Section 50. KRS 403.215 is amended to read as follows:

After July 15, 1990, any new or modified order or decree which contains provisions for the support of a minor child or minor children, shall provide for a wage assignment which shall begin immediately except for good cause shown***, and which shall be paid based upon the payment schedule of wages of the employer to whom the wage assignment is directed, and at a minimum, on a monthly basis***. If good cause is shown, the wage assignment shall take effect when an arrearage accrues that is equal to the amount of support payable for one (1) month, pursuant to KRS 405.465.

Section 51. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates KRS 405.490(2) shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

(3) A person who violates KRS 405.430***(12)***~~[(5)]~~ shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

Section 52. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, references in this Act to the Cabinet for Human Resources shall be codified as the Cabinet for Families and Children, unless the context clearly requires otherwise.

Representative Burch moved that the House concur in Senate Committee Substitute to **HB 161**. Agreed.

Representative Burch moved that **HB 161**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 82, Nays 14 (See March 31, 1998 roll call on **HB 161** - Appendix.) **HB 161**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Burch moved that the vote by which **HB 161**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 550, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 550** is as follows:

On page 12, after line 25, by inserting the following:

"Section 10. Whereas additional moneys are needed to provide the Department of Alcoholic Beverage Control the resources to effectively finance the reorganization of the Department as directed under Executive Order 97-26, dated January 7, 1997, and to provide for the training and hiring of personnel in the newly created Division of Support Services Administration, Office of Legal Services, Enforcement Division, and Field Offices, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

The Senate Committee Amendment No. 2 Title to **HB 550** is as follows:

By amending the title to read as follows: "AN ACT relating to the issuance of alcoholic beverage licenses and declaring an emergency."

Representative L. Clark moved that the House concur in Senate Committee Amendment No. 1 to **HB 550**. Agreed.

Representative L. Clark moved that **HB 550**, as amended by the Senate, be passed. On the roll call the vote was: Yeas 87, Nays 6 (See March 31, 1998 roll call on **HB 550** - Appendix.) **HB 550**, as amended by the Senate, was passed.

Representative L. Clark moved that the House concur in Senate Committee Amendment No. 2 Title to **HB 550**. Agreed; and the title was agreed to. Representative L. Clark moved that the vote by which **HB 550**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 319** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -1:05 p.m.) **HB 319** delivered to the Senate and signed by the President. Delivered to the Governor on March 31, 1998 at 1:20 p.m.

Orders of the Day (Continued)

HB 560, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 560** is as follows:

AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.750 is amended to read as follows:

As used in ***this section to*** KRS~~[65.755 and]~~ 65.760***:***~~[,]~~

(1) "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to reach local emergency service agencies on a twenty-four (24) hour basis, by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services***;***

(2) "Automatic number identification (ANI)" means a feature that allows for the automatic display of the ten (10) digit number, or equivalent, used to place a 911 call;

(3) "Automatic location identification (ALI)" means a feature by which the name and address associated with the calling party's telephone number is made available to a PSAP;

(4) "Automatic location identification data management system (ALI/DBS)" means a system of manual procedures and

computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(5) "Dispersed private telephone system (DPTS)" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures but does not mean a multiline, shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;

(6) "Fully enhanced 911 emergency telephone service" means a telephone network feature that selectively routes calls placed to the national 911 emergency number to the proper public service answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(7) "Private branch exchange (PBX)" means a privately owned switch system that connects calls to a telephone company;

(8) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(9) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber; and

(10) "Station identification number (SIN)" means a number that a DPTS uses to identify a specific station on the switch.

SECTION 2. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) Any DPTS located in an area that has adopted enhanced 911 emergency service shall within three (3) years of the date of its adoption, or if already adopted within three (3) years after the effective date of this Act, be able to:

(a) Operate effectively within an enhanced 911 system;

(b) Transmit a SIN for the station that directly dials the emergency number 911 to the service supplier; and

(c) Provide the service supplier with the following system information that shall be updated within five (5) business days if changes occur within the system:

1. Number of incoming trunk connections to the enhanced 911 system; and

2. SIN, sublocation, such as floor or apartment number, if applicable, and street address of each station that may originate an emergency call.

(2) In areas where fully enhanced 911 service has been implemented, the service supplier shall, at a minimum, make the verified ANI and ALI provided by the DPTS available to a PSAP for a fully enhanced 911 call.

(3) In areas where fully enhanced 911 service has been implemented, the service supplier shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on DPTS, except when the release of the information is ordered by a court of competent jurisdiction.

(4) In areas where enhanced 911 service has been implemented, an employee of a PSAP shall not retrieve or disclose ALI information except in response to a 911 call or for the purpose of maintaining the ALI database, unless ordered by a court of competent jurisdiction.

SECTION 3. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) Any owner, employee, or agent of a DPTS that knowingly or wantonly violates the provisions of subsection (2) of Section 2 of this Act shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or imprisoned in the county jail for not more than ninety (90) days, or both. Each day the violation continues shall be considered a separate offense.

(2) Any owner, employee, or agent of a DPTS or a service supplier that violates the provisions of subsection (3) of Section 2 of this Act shall be subject to the following penalties:

(a) For a first offense, a Class A misdemeanor; and

(b) For a second and subsequent offense, a Class D felony.

Section 4. KRS 65.760 is amended to read as follows:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county, or urban-county government, and may adopt regulations concerning the provision of this service by ordinance.

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone

service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state. The special tax, license, or fee may include a ***subscriber*** charge ***for 911 emergency telephone service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per account per government entity. Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point***[~~to be collected from local exchange telephone subscribers in the area to be served by 911 service on an individual exchange line basis limited to a maximum of twenty-five (25) exchange lines per account~~]. All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for ***the establishment, operation, and maintenance of a 911 emergency communications system; this may include expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service***[~~this purpose~~].

(4) The governing body may apply for and accept federal moneys, and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(5)[~~(4)~~] Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

Section 5. There is hereby established the DPTS/911 Task Force to study the issue of whether owners or operators of a dispersed system should be required to locate their telephone extensions in order to operate effectively within an enhanced 911 emergency service. The task force in its study shall determine the cost, under a range of common conditions, of purchasing or upgrading the equipment and services necessary to transmit the full 10-digit identifying number to a service supplier. The task force shall report its findings together with specific legislative recommendations, if applicable, to the Legislative Research Commission and to the interim committee with jurisdiction over matters concerning telecommunications services no later than August 1, 1999.

Section 6. The task force shall consist of no more than fifteen (15) members appointed by the Legislative Research Commission on or before July 1, 1998. Members shall include at least four (4) members of the General Assembly and nonlegislative members representative of business, emergency services, communications providers, industry, and other stakeholders in the issue. The Legislative Research Commission shall appoint the chair or co-chairs of the task force, who shall be members of the General Assembly.

Section 7. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Representative Barrows moved that the House concur in Senate Committee Substitute to **HB 560**. Agreed.

Representative Barrows moved that **HB 560**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 560** - Appendix.) **HB 560**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 560**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 377** is as follows:

On page 2, line 19, by deleting "***one dollar***"; and

On page 2, line 20, by bracketing and striking through "fifty-three" and inserting in lieu thereof "***seventy-three***"; and

On page 2, line 20 by deleting "***($1.53)***" and inserting in lieu thereof "***($0.73)***".

Representative Marzian moved that the House concur in Senate Committee Amendment No. 1 to **HB 377**. Agreed.

Representative Marzian moved that **HB 377**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 377** - Appendix.) **HB 377**, as amended by the Senate, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 377**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 337, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 337** is as follows:

On page 1, lines 13 to 14, delete "***to be used to defray the costs of operation of the Circuit Clerk's office***" and insert in lieu thereof: "***deposited in a trust and agency account to the credit of the Administrative Office of the Courts. The account shall be used to assist the circuit clerks in hiring additional employees and providing salary adjustments for deputy clerks***".

Representative Stein moved that the House concur in Senate Committee Amendment No. 1 to **HB 337**. Agreed.

Representative Stein moved that **HB 337**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 60, Nays 33 (See March 31, 1998 roll call on **HB 337** - Appendix.) **HB 337**, as amended by the Senate, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 337**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 380, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 380** is as follows:

On page 1, by deleting all text on lines 17 and 18.

Representative Marzian moved that the House concur in Senate Committee Amendment No. 1 to **HB 380**. Agreed.

Representative Marzian moved that **HB 380**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 380** - Appendix.) **HB 380**, as amended by the Senate, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 380**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 418, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 418** is as follows:

On page 2, line 19, after "office", by inserting the following:

"***, or prior to marrying a relative of the superintendent,***"; and

On page 2, line 20, by placing brackets around and striking through ", and it shall not apply to a", and inserting "***. A***"; and

On page 2, line 21, after "systems" by inserting the following;

"***may be an employee of the school district***".

Representative Moberly moved that the House concur in Senate Committee Amendment No. 1 to **HB 418**. Agreed.

Representative Moberly moved that **HB 418**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 418** - Appendix.) **HB 418**, as amended by the Senate, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 418**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 496** is as follows:

On page 16, line 19, after "and" by inserting "***submit***" and by placing brackets around and striking through "***pay***"; and

On page 17, line 25, after "and" by inserting "***submit***" and by placing brackets around and striking through "***pay***"; and

On page 18, by deleting lines 21, 22, and 23 in their entirety.

Representative Gooch moved that the House concur in Senate Committee Amendment No. 1 to **HB 496**. Agreed.

Representative Gooch moved that **HB 496**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 1 (See March 31, 1998 roll call on **HB 496** - Appendix.) **HB 496**, as amended by the Senate, was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 496**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 565, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 565** is as follows:

On page 11, line 11, by deleting "*shall*" and inserting "*may*" in lieu thereof;

On page 28, lines 25 through 27, by deleting the lines in their entirety;

On page 29, lines 1 through 23, by deleting the lines in their entirety; and

Renumber all subsequent sections accordingly; and

On page 23, line 8, by deleting "*27*" and inserting "*26*" in lieu thereof.

Representative D. Butler moved that the House concur in Senate Committee Amendment No. 1 to **HB 565**. Agreed.

Representative D. Butler moved that **HB 565**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 13 (See March 31, 1998 roll call on **HB 565** - Appendix.) **HB 565**, as amended by the Senate, was passed and the title agreed to. Representative D. Butler moved that the vote by which **HB 565**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 617, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 617** is as follows:

On page 11, between lines 9 and 10 by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Social Services and the Department for Medicaid Services shall not reimburse an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds unless the Department for Medicaid Services or the Department for Social Services or a designated agent thereof has determined that there is no provider within the Commonwealth that is capable and willing to provide comparable services at a comparable cost per child to those that would be delivered by the out-of-state provider. An exception may be made if:

(a) The identified in-state resource is farther away from the child's parent or guardian than a similar out-of-state resource; or

(b) The services offered by the out-of-state resource is deemed by either department or a designated agent thereof to be more appropriate for the individual child than the services offered by the in-state provider.

(2) Prior to promulgating administrative regulations governing the determination of the availability of providers of residential care within the Commonwealth, the Department for Medicaid Services and the Department for Social Services shall establish uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth.

(3) Each department shall promulgate an administrative regulation in accordance with KRS Chapter 13A that contains the uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth established under subsection (2) of this section.

Section 5. KRS 205.634 is amended to read as follows:

(1) No medical assistance payments shall be made under this chapter to any out-of-state health facility or health service providing services within the geographic boundaries of the Commonwealth who does not have a certificate of need if the health facility or health service would be required to obtain a certificate of need under KRS Chapter 216B if the facility or service were located within the geographic boundaries of the Commonwealth.

(2) The Department for Medicaid Services and the Department for Social Services shall not reimburse an out-of-state provider of residential care for children whose care is paid by state general funds or state administered federal funds unless the Department for Medicaid Services or the Department for Social Services or a designated agent thereof has determined that there is no provider within the Commonwealth that is capable and willing to provide comparable services at a comparable cost per child to those that would be delivered by the out-of-state provider. An exception may be made if:

(a) The identified in-state resource is farther away from the child's parent or guardian than a similar out-of-state resource; or

(b) The services offered by the out-of-state resource is deemed by either department or a designated agent thereof to be more appropriate for the individual child than the services offered by the in-state provider.

(3) Prior to promulgating administrative regulations governing the determination of the availability of providers of residential care within the Commonwealth, the Department for Medicaid Services and the Department for Social Services shall establish uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth.

(4) Each department shall promulgate an administrative regulation in accordance with KRS Chapter 13A that contains

the uniform conditions, requirements, and exceptions for the determination of the availability of providers of residential care within the Commonwealth established under subsection (3) of this section."

On page 11, line 10, by renumbering "Section 4." to "Section 6."

Representative Lee moved that the House concur in Senate Floor Amendment No. 2 to **HB 617**. Agreed.

Representative Lee moved that **HB 617**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 31, 1998 roll call on **HB 617** - Appendix.) **HB 617**, as amended by the Senate, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 617**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to a guest. Agreed. Representative Collins introduced Woody Brooks.

HB 48, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 48** is as follows:

AN ACT relating to public parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.590 is amended to read as follows:

(1) For the purpose of purchasing and maintaining public parks within the ***jurisdictional***[~~city~~] limits, cities of ***any class, counties, charter counties, and urban-county governments***[~~the fourth class~~] may levy taxes not exceeding five cents ($0.05) on each one hundred dollars ($100) of all taxable property within the corporate limits***. No city, county, charter county, or urban-county government shall levy the tax until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 and has been adopted by the city's, county's, charter county's, or urban-county government's voters. The public referendum provisions in this section shall not apply to any city, county, charter county, or urban-county government that has in effect on the effective date of this Act a tax for park purposes in accordance with KRS 97.550 or 97.590***.

(2) The funds derived from the levy shall be held by the treasurer of the city ***or the treasurer of the county*** in a separate and distinct fund designated the "Park Fund," and shall be paid out by the treasurer only upon order issued by the park board signed by the secretary and countersigned by the president after the bill for the withdrawal has been approved by the board. The treasurer shall not honor in any one (1) year orders for a greater sum than the amount apportioned and levied for that year for park and playground purposes.

Section 2. KRS 97.550 is amended to read as follows:

(1) Cities of ***any***[~~the fourth~~] class***, counties, charter counties, and urban-county governments*** may acquire, by purchase or donation, property for the purpose of maintaining public parks or playgrounds within the ***jurisdictional***[~~city~~] limits.

(2) The city legislative body ***or the fiscal court*** may appoint a park board of not more than ***eight (8)***[~~five (5)~~] persons, whose qualifications shall be prescribed by the ***city*** legislative body ***or fiscal court***, and whose terms of office shall be for two (2) years and until their successors are appointed and qualified, except that three (3) members of the first board appointed shall be appointed for terms of only one (1) year. The members of the board shall not receive any salary for their services. The board shall be a corporation with perpetual succession, and may, in its corporate name, contract and be contracted with, sue and be sued, have and use a corporate seal and alter or renew it at pleasure.

Section 3. KRS 147A.028 is amended to read as follows:

(1) In enacting a parks establishment aid law, it is the intention of the General Assembly to supplement local efforts to establish park and recreational facilities. The inadequacy of present facilities and the high cost of acquisition and establishment of park recreational facilities are hereby declared to be matters of public interest and concern and vital to the promotion of the health, welfare and industrial development of the inhabitants of the Commonwealth.

(2) The commissioner of the Department of Local Government shall cause to be established in the Treasury a special fund to be known as the local government parks and recreational facilities fund, to be administered by the commissioner. The fund shall be comprised of grants, contributions, appropriations and intergovernmental transfers. Moneys in the fund shall not lapse at the end of the fiscal year.

(3) The commissioner may, when he determines that a proposed local government plan for a park or other recreational facility would serve the public interest, use moneys from the local government parks and recreational facilities fund to aid local governmental units in their acquisition and establishment of local parks and recreational facilities, provided that local governmental units must provide matching funds for the project. The Department of Local Government may grant an amount up to ***five hundred thousand dollars ($500,000)***[~~one hundred thousand dollars ($100,000)~~] for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project. For the purposes of this

section, local governmental units shall mean county governments, urban-county government, and governments of cities of any class. Title to parks and recreational facilities acquired by the use of funds authorized by this section shall vest in the local governmental unit which proposed the project and provided the matching funds.

(4) In September of each year the commissioner shall determine the amount of funds available for distribution by December 31 of that same year. The commissioner may prescribe standards for determining the amounts to be granted for local projects and such regulations as may be necessary to implement the provisions of this section. Funds granted by the department shall be spent by the local governing authorities only for the acquisition and establishment of parks and recreational facilities or major improvements or additions to existing parks and shall not be used for operating or maintenance expenses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 97 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of acquiring, building, operating, and maintaining parks and green space, two (2) or more counties may form a regional park authority.

(2) (a) The regional park authority may be established by a vote of the fiscal courts of the participating counties or by a vote of the majority of the voters in each participating county voting in an election. The issue shall be placed upon the ballot if supported by a petition signed by a number of people from the participating counties equal to one percent (1%) of the voters in the last regular election.

(b) A county may join an existing regional park authority by a vote of the fiscal court of each participating county and of the fiscal court of the joining county, or by a vote of the majority of voters from each participating county and the joining county voting in an election. The issue shall be placed upon the ballot if supported by a petition signed by a number of people from the participating and joining counties equal to one per cent (1%) of the voters from each participating county, and one percent (1%) of the voters from the joining county, voting in the last regular election.

(3) A regional park authority is authorized to:

(a) Levy taxes and issue bonds;

(b) Accept donations, land, and equipment;

(c) Reject unusable or unmanageable land donations;

(d) Hire employees and contract for services; and

(e) Enter into agreements with public and private entities under the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300, and contracts authorizing the use of private facilities for public recreation.

(4) A regional park authority may levy taxes not exceeding five cents ($0.05) on each one hundred dollars ($100) of all taxable property within the regional park authority's boundaries. The tax shall not be levied until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 and has been adopted by the majority of the voters voting in an election in each county involved.

(5) A regional park authority shall be governed by a board made up of three (3) citizens from each participating county. Board members shall be appointed by the fiscal court from a list of candidates provided by the cities within the county and by the county planning commission if there is one in that county.

Representative Murgatroyd moved that the House refuse to concur in Senate Committee Substitute to **HB 48**. Agreed.

HB 90, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 90** is as follows:

AN ACT relating to assault of sport officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of assault of a sports official when he intentionally causes physical injury to a sports official:

(a) Who was performing sports official duties at the time the physical injury was perpetrated; or

(b) If the physical injury occurs while the sports official is arriving at or departing from the athletic facility at which the athletic event occurred.

(2) For the purposes of this section, "sports official" means an individual who serves as a referee, umpire, linesman, or in a similar capacity that may be known by another title, and who is duly registered as or is a member of a national, state, regional, or local organization engaged, in part, in providing education and training to sports officials.

(3) A person who is guilty of assault of a sports official shall, for a first offense, be guilty of a Class A misdemeanor, unless the defendant assembles with five (5) or more persons for the purpose of assaulting a sports official, in which

case it is a Class D felony.

(4) A person who is guilty of assault of a sport official shall, for a second or subsequent offense, be guilty of a Class D felony.

Representative Cave moved that the House concur in Senate Committee Substitute to **HB 90**. Agreed.

Representative Cave moved that **HB 90**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 31, 1998 roll call on **HB 90** - Appendix.) **HB 90**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Cave moved that the vote by which **HB 90**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

The Committee on Committees appointed the following members to serve on a Conference Committee on **HB 226**: Representative Coleman, Chair; Representatives Clarke and Napier.

HB 127, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 127** is as follows:

AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.065 is amended to read as follows:

(1) The governing body of each district shall annually prepare a budget, and, as appropriate, shall classify budget units in the same fashion as county budgets are classified ***in accordance with***[~~pursuant to~~] KRS 68.240(2) to (5). The state local finance officer shall prepare standard budget forms for district use, and shall furnish them to county clerks for distribution to district officers. ***No moneys shall be expended from any funds or any sources, except in accordance with the budget which has been filed with the fiscal court to be available for public inspection. No budget of a district shall become effective until filed with the fiscal court of the county in which the district is located for submission to the Department for Local Government. For those districts with multicounty jurisdictions, the district shall file a copy with each of the fiscal courts within the jurisdiction of the district for their review. If the budget is not filed with the fiscal court by June 1 of each year, the fiscal court shall immediately notify the county attorney. The county attorney shall then notify the governing board of the special district of the noncompliance and then proceed with any steps necessary to prevent the expenditure of funds by the special district until the district is in compliance.***

(2) The governing body of each district which for the year in question receives from all sources or expends for all purposes less than ***four hundred***[~~fifty~~] thousand dollars ***($400,000)***[~~($50,000)~~] shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection ***(4)***[~~(5)~~] of this section.

(3)[~~The governing body of each district which for the year in question receives from all sources or expends for all purposes fifty thousand dollars ($50,000) or more but less than five hundred thousand dollars ($500,000) shall annually prepare a financial statement and shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform a review of the financial statement, except that once every four (4) years, the district's governing body shall provide for the performance of an audit as provided in subsection (5) of this section.~~

~~(4)~~] The governing body of each district which for the year in question receives from all sources or expends for all purposes ***four***[~~five~~] hundred thousand dollars ***($400,000)***[~~($500,000)~~] or more shall provide for the performance of an annual audit as provided in subsection ***(4)***[~~(5)~~] of this section.

(4)[~~(5)~~] To provide for the performance of an audit, the governing body of a district shall employ an independent certified public accountant, or contract with the Auditor of Public Accounts to perform an audit of the funds in the district budget. The audit shall conform to:

(a) Generally-accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States; and

(b) Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts. A unit of government furnishing funds directly to a district may require additional audits at its own expense. ***Upon request, the State Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit.*** If a district is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit them in lieu of the requirements of this section, if the audits meet the requirements of this subsection.

(5)[~~(6)~~] The provisions of ***subsection***[~~subsections~~] (2)[~~ and (3)~~] of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. The districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection ***(4)***[~~(5)~~] of this section.

(6)[~~(7)~~] Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with ***the***[~~such~~] provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 2. KRS 65.070 is amended to read as follows:

(1) By the first day of ***July***[~~May~~] of each year, ***before a district budget takes effect, and after the uniform financial information report required by KRS 65.900 to 65.920 is submitted to the Department of Local Government***[~~when the uniform financial information report is required by KRS 65.900 to 65.920 to be submitted to the Department of Local Government~~], a district shall:

  (a) File with the county clerk of each county with territory in the district a certification showing any of the following information that has changed since the last filing by the district:

    1. The name of the district;
    2. A map or general description of its service area;
    3. The statutory authority under which it was created; and
    4. The names, addresses, and the date of expiration of the terms of office of the members of its governing body and chief executive officer;

  (b) ***Submit for review***[~~File~~] a copy of the district budget, financial statement if prepared, and audit when performed, with the ***fiscal court***[~~county judge/executive~~] of each county with territory in the district; and

  (c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

(2) The Department of Local Government shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.

(3) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with its provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Representative Brandstetter moved that the House concur in Senate Committee Substitute to **HB 127**. Agreed.

Representative Brandstetter moved that **HB 127**, by way of Senate Committee Substitute, be passed:

On the roll call the vote was: Yeas 84, Nays 4 (See March 31, 1998 roll call on **HB 127** - Appendix.) **HB 127**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Brandstetter moved that the vote by which **HB 127**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 128, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 128** is as follows:

AN ACT relating to charitable health care services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by this state or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care and performing no invasive or surgical procedures.

(2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.

(3) "Sponsoring organization" means any organization, with an established relationship with a practicing entity, that organizes or arranges for the voluntary provision of health care services in the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall be necessary for the voluntary provision of health care services by any person who:

(a) Is a charitable health care provider as defined in Section 1 of this Act; or

(b) Does not regularly practice in the Commonwealth.

(2) No person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, nor any person who renders services outside of the scope of practice authorized by his or her licensure or certification, or exception to license or certification shall be allowed to participate with any sponsoring organization as a charitable health care provider.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Human Resources by submitting a registration fee of fifty dollars ($50) and filing a registration form that shall contain the following information:

(a) The name, address, and phone number of the charitable health care provider;

(b) Written and verifiable documentation of a current Kentucky license, including, if applicable, a license granted to an individual under a reciprocal agreement with another state or country;

(c) The name, principal office address, phone number, and principal officer of any sponsoring organization;

(d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;

(e) Information as to any medical malpractice insurance procured under Section 6 of this Act or otherwise; and

(f) Other information as the cabinet may require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.

(5) Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.

(6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Human Resources. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of Sections 1 to 5 of this Act, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

With regard to a person who provides charitable health care services under Section 2 of this Act, the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall not apply with respect to itinerant providers, licensing, or certification, and all requirements regarding display of a license or certification shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption from the state, territory, district or possession of the United States in which the provider is licensed, certified, or exempt.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth finds that access to high-quality health care services is a concern of all persons; that access to such services is limited for some residents of the Commonwealth, particularly those residing in remote rural areas or inner cities; that physicians and other health care providers have traditionally worked to assure access to health care services; and that many health care providers from the Commonwealth and other states are willing to volunteer their services to address the health care needs of Kentuckians who may otherwise not be able to obtain such services. Therefore, it is the purpose of Sections 1 to 5 of this Act to encourage and facilitate the charitable provision of health care services within the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act may be cited as the Kentucky Charitable Health Care Services Act.

Section 6. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed ***or certified*** by the Commonwealth, ***or under a comparable provision of law of another state, territory, district, or possession of the United States,*** engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice medicine and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund ***not to exceed the sum of twenty thousand dollars ($20,000) and from the registration fees collected by the Cabinet for Human Resources under subsection (3) of Section 2 of this Act*** upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;

2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;

3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;[~~ and~~]

4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed***; and***

5. A copy of the registration filed with the Cabinet for Human Resources under Section 2 of this Act.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Human Resources shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section, to a charitable health care provider who has not registered with the Cabinet for Human Resources

under Section 2 of this Act.

Representative Brandstetter moved that the House concur in Senate Committee Substitute to **HB 128**. Agreed.

Representative Brandstetter moved that **HB 128**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 31, 1998 roll call on **HB 128** - Appendix.) **HB 128**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Brandstetter moved that the vote by which **HB 128**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 132** is as follows:

On page 20, after line 19 and before line 20 by inserting the following:

"***(3) The secretary may enter into contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary to carry out the general intent and purposes of the cabinet.***"; and

On page 21, line 16, by deleting the period after "***budgetary***"; and

On page 21, line 16, by inserting after the word "***budgetary***", the following language, "***, contract monitoring, quality assurance, quality control, outcome assessment,***"; and

On page 22, line 27, By deleting the following words, "***quality assurance, quality control, and outcome assessment;***" and

On page 32, by deleting lines 14 and 15 in their entirety, and by inserting in lieu thereof, the following:

"***(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit, or possess a food stamp or food stamp identification card or unique electronic authorization code or number or electronic personal identification number in any manner not authorized by law.***"; and

On page 32, line 24, by deleting the word, "***same***"; and

On page 42, line 27, before the word, "General", By inserting the word, "***the***"; and

On page 92, after line 18 and before line 19, by inserting the following new section and by renumbering subsequent sections accordingly:

"Section 97. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for ***Health Services***~~[Human Resources]~~, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot five thousand dollars ($5,000) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase

group or blanket health insurance and shall be used to workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-

95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund."; and

On page 109, on line 24, By deleting the words "***Families and Children***" and by inserting in lieu thereof the following words, "***Workforce Development***", and on lines 26 and 27, By deleting the words, "***Families and Children***" and by inserting in lieu thereof, the following words, "***Workforce Development***".

Representative Mason moved that the House concur in Senate Floor Amendment No. 1 to **HB 132**. Agreed.

Representative Mason moved that **HB 132**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 84, Nays 9 (See March 31, 1998 roll call on **HB 132** - Appendix.) **HB 132**, as amended by the Senate, was passed and the title agreed to. Representative Mason moved that the vote by which **HB 132**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 160** is as follows:

AN ACT relating to the establishment of a study commission to study the benefits and effects of complementary and alternative medicine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to establish a commission to study the benefits and effects of complementary and alternative medicine, nonconventional medical treatment, acupuncture, and naturopathy. The members of the study commission shall include the deans of the Commonwealth's three (3) medical schools or their designees, three (3) representatives of schools of nonconventional medicine, naturopathy, and acupuncture, representatives of the Kentucky State Board of Chiropractic Examiners, the Kentucky State Board of Medical Licensure, the Kentucky Nurses Association, the Kentucky Hospital Association, the Kentucky Medical Association, the Kentucky Osteopathic Medical Association, the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists, the Kentucky Pharmacists Association, and the Division of Consumer Protection of the Office of the Attorney General, and a member of the Coalition for Natural Health. The study commission shall consider reports and findings provided by the National Institute of Health, the American Chiropractic Association, and the American Medical Association on their respective studies of these issues. The study commission shall report any findings and recommendations to the year 2000 Regular Session of the General Assembly.

Section 2. If during the two (2) year study period, any alternative medical treatment under review by the study commission is found to be safe and effective, the alternative medical treatment may be referred to the Kentucky Board of Medical Licensure or the Kentucky State Board of Chiropractic Examiners, or both, as appropriate for consideration for possible approval as part of the practice of medicine or chiropractic.

The Senate Floor Amendment No. 3 to the Senate Committee Substitute to **HB 160** is as follows:

On page 1, line 20, By deleting "or both," after "Board of Chiropractic Examiners".

Representative P. Clark moved that the House concur in the Senate Committee Substitute to **HB 160**. Agreed. Representative P. Clark moved that the House concur in Senate Floor Amendment No. 3 to the Senate Committee Substitute. Agreed

Representative P. Clark moved that **HB 160** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 5 (See March 31, 1998 roll call on **HB 160** - Appendix.) **HB 160**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 160**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said

motion be placed on the table. Agreed.

HB 200, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 200** is as follows:

AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation***, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public***.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of

KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

Representative Long moved that the House concur in Senate Committee Substitute to **HB 200**. Agreed.

Representative Long moved that **HB 200**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 200** - Appendix.) **HB 200**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Long moved that the vote by which **HB 200**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **HB 226**.

HB 266, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 266** is as follows:

On page 1, line 25, before "be" by inserting "***mean the total cost of the telephonic and telegraphic communications, electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the telecommunication and telegraphic services or tangible personal property, such as gas, electricity, and water, regardless from whom purchased***"; and

On page 1, line 25, by placing an opening bracket before and striking through "be" and by striking through the remainder of that line; and

On page 2, line 1, by striking through the language on that line; and

On page 2, line 2, by placing a closing bracket before the period and by striking through "(1) of this section is paying".

Representative Treesh moved that the House concur in Senate Committee Amendment No. 1 to **HB 266**. Agreed.

Representative Treesh moved that **HB 266**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 4 (See March 31, 1998 roll call on **HB 266** - Appendix.) **HB 266**, as amended by the Senate, was passed and the title agreed to. Representative Treesh moved that the vote by which **HB 266**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 280, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 280** is as follows:

AN ACT relating to skills training investment credits for workforce training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with Sections 1 to 4 of this Act.

(2) "Approved costs" means:

- *(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;*
- *(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;*
- *(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;*
- *(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;*
- *(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and*
- *(f) All other costs of a nature comparable to those described in this subsection.*

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205.

(4) "Commonwealth" means the Commonwealth of Kentucky.

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent institution within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level.

(6) "Employee" means any person:

- *(a) Who is currently a permanent full-time employee of the qualified company; and*
- *(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company.*

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020.

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company.

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under Section 3 of this Act to receive a certain maximum amount of skills training investment credits.

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company.

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including, but not limited to, technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas or who risk displacement because their skill deficiencies inhibit their training potential for new technology.

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in subsection (1) of Section 2 of this Act.

SECTION 2. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Bluegrass State Skills Corporation may, in accordance with Sections 1 to 4 of this Act, award a credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042. The skill training investment credits allowed under Sections 1 to 4 of this Act shall only be used by the approved company that has been awarded the credits in accordance with Sections 1 to 4 of this Act. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in that tax year; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under Sections 1 to 4 of this Act, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under Section 3 of this Act shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the Bluegrass State Skills Corporation the Kentucky income tax liability for the preceding fiscal year of the approved company for which the return was filed, and the amount of any skills training investment credits taken pursuant to Sections 1 to 4 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Bluegrass State Skills Corporation shall establish guidelines and standards, for approving skills training investment credits for occupational upgrade training and skills upgrade training. The guidelines and standards may include, but are not limited to: required hours of classroom instruction; required courses; certification of teachers or instructors, whether independent contractors or employees of a qualified company; certification of providers; progressive levels of instruction; and standardized measures of employee evaluation to determine successful completion of a course of study.

(2) To apply for skills training investment credits under Sections 1 to 4 of this Act, a qualified company shall submit an application to the Bluegrass State Skills Corporation before commencing its program of occupational upgrade training or skills upgrade training. The application submitted by the qualified company shall contain information the Bluegrass State Skills Corporation requires, including, but not limited to:

(a) A proposal for a program of occupational upgrade training or skills upgrade training;

(b) A description of each component of the proposed training program and the number of employee training hours requested;

(c) An itemized statement of all anticipated costs and expenses of the training program, including a breakdown of the costs and expenses associated with employee wages, equipment, personnel, facilities, and materials; and

(d) Auditing procedures and reporting methods for the submission of information and data to the Bluegrass State Skills Corporation.

(3) After a review of applications for skills training investment credits, the Bluegrass State Skills Corporation may designate the qualified company as a preliminarily approved company and preliminarily approve the amount of skills training investment credits that the qualified company shall be eligible to receive. The maximum amount of skills training investment credits preliminarily approved for all qualified companies by the Bluegrass State Skills Corporation for fiscal year 1998-1999 and fiscal year 1999-2000 shall not exceed one million dollars ($1,000,000) and shall not exceed two million five hundred thousand dollars ($2,500,000) for each fiscal year thereafter. Skills training investment credits shall be allocated to qualified companies in the same order preliminary approval is granted by the Bluegrass State Skills Corporation. Skills training investment credits that remain unallocated by the Bluegrass State Skills Corporation at the end of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.

(4) The preliminarily approved company shall complete all programs of occupational upgrade training or skills upgrade training within one (1) year from the date of the preliminary approval of the skills training investment credits by the Bluegrass State Skills Corporation and shall certify the completion of these programs to the Bluegrass State Skills Corporation.

(5) The preliminarily approved company shall maintain in its employment the employees receiving occupational upgrade or skills upgrade training for a minimum of ninety (90) days following the completion of the program of occupational upgrade training or skills upgrade training and shall certify to the Bluegrass State Skills Corporation the number of employees who remained in the employment of the preliminarily approved company for the full ninety (90) day period.

(6) If a qualified company concludes its training program within the prescribed one (1) year and receives the required certifications described in subsections (4) and (5) of this section, then the Bluegrass State Skills Corporation shall adopt a final authorizing resolution, approving the amount of skills training investment credits awarded to the preliminarily approved company in accordance with Sections 1 to 4 of this Act. The adoption of a final authorizing resolution shall be contingent upon the Bluegrass State Skills Corporation's approval of documentation submitted by the preliminarily approved company supporting all incurred approved costs. If one (1) or more of the employees of the preliminarily approved company failed to continue in the employment of the company for ninety (90) days following the completion of the prescribed one (1) year, then the amount of the skills training investment credits preliminarily approved for a qualified company shall be reduced on a pro rata basis for each employee who failed to continue employment with the preliminarily approved company through the ninety (90) day period. The final amount of the skills training investment credits awarded to the approved company shall not exceed the amount of skills training investment credits that the approved company was preliminarily approved for by the Bluegrass State Skills Corporation prior to commencement of the training program.

SECTION 4. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 4 of this Act may be cited as the "Skills Training Investment Credit Act."

SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" has the same meaning as set forth in Section 1 of this Act; and

(b) "Skills training investment credit" has the same meaning as set forth in Section 1 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14);

(b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under subsection (6) of Section 3 of this Act shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and

(c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under subsection (6) of Section 3 of this Act.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation,

partnership, limited liability partnership, or trust shall be subject to income tax on the net income attributable to the approved company's operations at the rates provided in KRS 141.020(2);

(b) The amount of the skills training investment credit shall be the same as the amount of the tax computed in this section or, upon the annual election of the approved company, in lieu of the skills training investment credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this subsection shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, limited liability partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries;

(c) The skills training investment credit or estimated payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under subsection (6) of Section 3 of this Act;

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, limited liability partnership, or trust at the times provided by KRS 141.160 for filing the returns; and

(e) Any estimated tax payment made by the S-corporation, partnership, limited liability partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the skills training investment credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, limited liability partnership, or trust.

(6) Any limited liability company that is treated as a corporation for federal tax purposes shall determine the skills training investment credit as provided in subsection (3) of this section.

(7) Any limited liability company which is treated as a partnership for federal tax purposes shall determine the skills training investment credit as provided in subsection (4) of this section.

(8) The Revenue Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 4 of this Act and the allowable skills training investment credits that an approved company may retain under Sections 1 to 4 of this Act.

Section 6. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  (a) The individual credits permitted by KRS 141.020(3);
  (b) The economic development credits computed under KRS 141.347, 141.400, 141.403,~~[and]~~ 141.407*, and Section 3 of this Act*;
  (c) The health insurance credit permitted by KRS 141.062;
  (d) The tax paid to other states credit permitted by KRS 141.070;
  (e) The credit for hiring the unemployed permitted by KRS 141.065;
  (f) The recycling or composting equipment credit permitted by KRS 141.390;
  (g) The Commonwealth Venture Fund credit permitted by KRS 154.20-340;
  (h) The low income credit permitted by KRS 141.066; and
  (i) The household and dependent care credit permitted by KRS 141.067.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  (a) The individual withholding tax credit permitted by KRS 141.350; and
  (b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:
  (a) The economic development credits computed under KRS 141.347, 141.400, 141.403,~~[and]~~ 141.407*, and Section 3 of this Act*;
  (b) The health insurance credit permitted by KRS 141.062;
  (c) The unemployment credit permitted by KRS 141.065;
  (d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090; and

(g) The Commonwealth Venture Fund credit permitted by KRS 154.20-340.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Representative Adkins moved that the House concur in Senate Committee Substitute to **HB 280**. Agreed.

Representative Adkins moved that **HB 280**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 31, 1998 roll call on **HB 280** - Appendix.) **HB 280**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Adkins moved that the vote by which **HB 280**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 282** is as follows:

On page 11, line 19, after "***participation***" by inserting "***. A petroleum storage tank owner or operator may request through certified mail that the office schedule an assurance fund auditor to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an auditor fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the assurance fund no later than ten (10) days prior to the proposed date that an auditor is not available on the proposed date, in which event a representative of the assurance fund shall contact the operator and schedule a new date. If no auditor is present at the rescheduled date, the removal may then proceed without penalty***".

Representative Lee moved that the House concur in Senate Committee Amendment No. 1 to **HB 282**. Agreed.

Representative Lee moved that **HB 282**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 282** - Appendix.) **HB 282**, as amended by the Senate, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 282**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 315** is as follows:

AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in Section 11 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

(c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code;

9. A public health plan, as defined in regulations; or

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section.

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 6 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to the effective date of this Act, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in Sections 2, 3, and 4 of this Act, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics; or

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under Sections 15 to 23 of this Act;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in subsection (3) of Section 18 of this Act;

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile

medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with Section 14 of this Act, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, friedreich's ataxia, hemophilia, hodgkin's disease, huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and wilson's disease;

(20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members.

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to

and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) "Market segment" means the portion of the market covering one (1) of the following:

- *(a) Individual;*
- *(b) Small group;*
- *(c) Large group; or*
- *(d) Association;*

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

- *(a) A small employer with two (2) to fifty (50) employees; or*
- *(b) An affiliated group or association with two (2) to fifty (50) eligible members; and*

(35) "Standard benefit plan" means the plan identified in Section 7 of this Act.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers health benefit plan coverage in the small group, large group, or association market may not establish rules for eligibility of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or the dependent of the individual:

- *(a) Health status;*
- *(b) Medical condition, including both physical and mental illness;*
- *(c) Claims experience;*
- *(d) Receipt of health care;*
- *(e) Medical history;*
- *(f) Genetic information;*
- *(g) Evidence of insurability, including conditions arising out of acts of domestic violence; and*
- *(h) Disability.*

(2) An insurer that offers health benefit plan coverage in the small group, large group, or association market, shall not require any individual to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or a dependent of the individual. Nothing in this subsection shall prevent the insurer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) Subject to subsections (4) to (7) of this section, each insurer that offers health benefit plan coverage in the small groups market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the

individual first becomes eligible to enroll under the terms of the group health benefit plan.

(a) Notwithstanding any other provision of this subsection, the insurer may establish group participation rules requiring a minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of those eligible for enrollment.

(b) The terms and participation rules of the group health benefit plan shall be uniformly applicable to small employers in the small group market.

(c) This subsection shall not apply to health benefit plan coverage offered by an insurer if the coverage is made available in the small group market only through one (1) or more bona fide associations.

(4) In the case of an insurer that offers health benefit plan coverage in the small group market through a network plan, the insurer may:

(a) Limit the employers that may apply for coverage to those with individuals who live, work, or reside in the service area of the network plan; and

(b) Within the service area of the network plan, deny coverage to employers if the insurer has demonstrated to the commissioner that:

1. The network plan will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and

2. The insurer is applying this denial uniformly to all employers.

(5) An insurer, upon denying health benefit plan coverage in any service area in accordance with subsection (4) of this section, shall not offer coverage in the small group market within the service area for a period of one hundred eighty (180) days after the date the coverage is denied.

(6) An insurer may deny health benefit plan coverage in the small group market if the insurer has demonstrated to the commissioner that:

(a) The insurer does not have the financial reserves necessary to underwrite additional coverage; and

(b) The insurer is applying this denial uniformly to all employers in the small group market.

(7) An insurer, upon denying health benefit plan coverage in connection with group health plans in accordance with subsection (6) of this section shall not offer coverage in the small group market for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later.

(8) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of Section 4 of this Act.

(9) (a) In connection with the offering of any health benefit plan to a small employer, an insurer:

1. Shall make a reasonable disclosure to a small employer, as part of its solicitation and sales materials, of the availability of information described in paragraph (b) of this subsection; and

2. Upon request of a small employer, provide the information described in paragraph (b) of this subsection.

(b) Subject to paragraph (c) of this subsection, with respect to an insurer offering a health benefit plan to a small employer, information described in this subsection is information concerning:

1. The provisions of the coverage concerning the insurer's right to change premium rates and the factors that may affect changes in premium rates;

2. The provisions of the health benefit plan relating to renewability of coverage;

3. The provisions of the health benefit plan relating to any preexisting condition exclusion; and

4. The benefits and premiums available under all health benefit plans for which the small employer is qualified.

(c) Information described in paragraph (b) of this subsection shall be provided to a small employer in a manner determined to be understandable by the average small employer, and shall be sufficient to reasonably inform a small employer of his or her rights and obligations under the health benefit plan.

(d) An insurer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the *individual market on a guaranteed-issue basis as follows:*

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

  (a) The standard health benefit plan; or

  (b) The insurer's two (2) health benefit plans, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plans sold so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plans made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plans so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under subsection (3)(a) of Section 17 of this Act to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5) (a) No insurer, who was not offering health benefit plans in Kentucky on January 1, 1998, shall be required to accept annually under this section individuals who, in the aggregate, would cause the insurer to have a total number of new insureds with high-cost conditions as defined in subsection (19) of Section 1 of this Act or which exceed an insurer's underwriting guidelines as approved by the commissioner under subsection (3)(b) of Section 18 of this Act per year that is more than one-half of one per cent (0.5%) of the total number of individuals insured by the insurer under individual health benefits plans issued or issued for delivery in the Commonwealth, calculated as of the immediately preceding thirty-first day of December.

  (b) The commissioner shall, by administrative regulation, establish equitable enrollment limits for the first twelve (12) months, and any remaining portion of the calendar year after the expiration of that twelve (12) month period, in which an insurer first begins doing business in the individual market. These limits shall be based on the insurer's quarterly enrollment in health benefit plans offered in the individual market in the Commonwealth.

  (c) An officer of the insurer shall certify to the department when it has met the enrollment limit established in this subsection. Upon providing this certification, the insurer shall be relieved of its guaranteed issue requirement under this section for the remainder of the calendar year.

  (d) If all insurers that are required to offer coverage on a guaranteed-issue basis meet the enrollment limit established in this subsection prior to the end of the calendar year, then all such insurers shall again accept individuals for guaranteed issue coverage, subject to the enrollment limit established in this subsection.

  (e) If certification of the enrollment limit would leave any county in the Commonwealth without an insurer to provide coverage in the individual market, the commissioner may require any insurer that meets the criteria in subsection (1) of Section 17 of this Act to continue to offer coverage in that county. The commissioner shall proportionally increase the enrollment limit under this subsection for all other insurers that do not meet the criteria of subsection (1) of Section 17 of this Act.

(6) An insurer that elects to use the alternative underwriting mechanism under subsection (3) of Section 18 of this Act shall offer to those insureds who are subject to the alternative underwriting mechanism the standard plan and the two (2) plans offered by the insurer with the largest premium volume for the last calendar year.

(7) For the purposes of this section and Section 7 of this Act, insurers whose activities in the individual market are limited to the renewal of health benefit plans issued prior to July 15, 1995, shall not be deemed to be doing business in the individual market.

(8) Subsections (1) to (7) of this section shall not apply to a health benefit plan offered by an insurer if the coverage is

made available in the individual market only through one (1) or more bona fide associations.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.

(2) Subject to subsection (5) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:

(a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date;

(b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date; and

(c) The period of that pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date.

(3) For purposes of this section:

(a) 1. "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date; and

2. Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information;

(b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(c) "Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or

2. A special enrollment period under subsection (7) of this section; and

(d) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(4) (a) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after the period and before the enrollment date, there was a sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(b) For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.

(c) 1. Except as otherwise provided under paragraph (b) of this subsection, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or a health insurance insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under paragraph (a) of this subsection. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under paragraph (b) of this subsection, whether or not health insurance coverage is provided in connection with the plan, the plan shall:

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and *b. Include in these statements a description of the effect of this election.*

(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (6) of this section or in such other manner as may be specified in administrative regulations.

(5) (a) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of an individual who, as of the last day of the thirty (30) day period beginning with the date of birth, is covered under creditable coverage.

(b) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the thirty (30) day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan, and health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion relating to pregnancy as a pre-existing condition.

(d) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(6) (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide the certification described in subparagraph 2. of this subsection:

a. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision;

b. In the case of an individual becoming covered under that provision, at the time the individual ceases to be covered under the provision; and

c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certification under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:

a. The period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.

3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

(b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:

1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

(7) (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

2. The employee stated in writing at that time that coverage under a group health plan or health *insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;*

3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or

b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

4. Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph.

(b) 1. If:

a. A group health plan makes coverage available with respect to a dependent of an individual;

b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and

c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption;

the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.

2. A dependent special enrollment period under this subparagraph shall be a period of not less than thirty (30) days and shall begin on the later of:

a. The date dependent coverage is made available; or

b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.

3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:

a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

b. In the case of a dependent's birth, as of the date of the birth; or

c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;

2. The period is applied uniformly without regard to any health status-related factors; and

3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.

(b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.

3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of Section 4 of this Act, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer; or

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in Sections 2 and 3 of this Act. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 18 of this Act for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under Sections 2, 3, 4, 5, and 6 of this Act.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act until January 1, 1999, for approval to reenter Kentucky and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 9. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by

insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.***

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that it needs the additional time for consideration of the filing. At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.~~

~~(b) The commissioner may hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~

~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) ***The effect on the rates of any assessment made under Section 21 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal***[~~Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing~~].

(5)[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase.~~

~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund ***or future premium credit*** to policyholders, enrollees, and subscribers if the commissioner determines that the ***rates or fees previously approved are in violation of this chapter***[~~benefits are no longer reasonable in relation to the premiums or fees charged~~].

(6) Each insurer paying a risk assessment under Section 21 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(7) The commissioner may by administrative regulation prescribe any additional information ***related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she***[~~it~~] deems ***necessary and*** relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after the effective date of this Act. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under Section 15 of this Act shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995 and the effective date of this Act to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in Section 1 of this Act.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after June 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than June 30, 1999, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on July 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after June 30, 1998. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on July 1, 1999.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer, including the Kentucky State Medicaid program and Medicaid partnerships.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may, by administrative regulation, add to the list of high-cost conditions provided in Section 1 of this Act other high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 15 to 23 of this Act shall be referred to as the Kentucky Guaranteed Acceptance Program.

(2) There is hereby created and established the Kentucky Guaranteed Acceptance Program which is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(3) Payment to providers of services under program plans shall not be discriminatory. Guaranteed acceptance program insurers shall reimburse providers at rates that are no less favorable than the rates paid to the comparable providers for services delivered to enrollees who do not have a high-cost condition.

(4) All insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Acceptance Program either as a guaranteed acceptance program supporting insurer or a guaranteed acceptance program participating insurer.

(a) A guaranteed acceptance program insurer participates in the program by both issuing guaranteed acceptance program plans to guaranteed acceptance program qualified individuals in accordance with the provisions of this subtitle and by being subject to assessments and payments through the risk assessment process.

(b) A guaranteed acceptance program supporting insurer participates in the program only by being subject to assessments and payments through the program risk assessment process.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 23 of this Act, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "Guaranteed acceptance program plan claims" or "alternative underwriting mechanism losses" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(4) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(5) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in Section 21 of this Act;

(6) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(7) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(8) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(9) "Other coverage" means coverage under any of the following:

(a) A group plan;

(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c et seq.;

(c) A state plan under Title XIX of the Social Security Act, or any successor program;

(d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

(e) Any other health insurance coverage which is not individual health insurance coverage;

(10) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(11) "Program" means the Kentucky Guaranteed Acceptance Program;

(12) "Refund" means an amount to be paid to an insurer by the program;

(13) "Stop-loss carrier" means any person providing health insurance stop-loss coverage;

(14) "Stop-loss premiums" means amounts paid to purchase health insurance stop-loss coverage; and

(15) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

SECTION 17. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing health benefit plans in Kentucky and that had a market share of twenty-five percent (25%) or more for any calendar year shall be a program participating insurer for the following calendar year.

(2) On or before July 1, 1998, each insurer issuing health benefit plans in Kentucky, other than the insurers required by subsection (1) of this section to be a program participating insurer, shall advise the commissioner in writing whether it will participate in the program as a program participating insurer or a program supporting insurer. After July 1, 1998, no insurer shall issue health benefit plans in Kentucky without first advising the commissioner in writing that it will participate in the program as a program participating insurer or a program supporting insurer. Any insurer issuing health benefit plans in Kentucky that fails to advise the commissioner of the nature of its participation in the program shall be deemed a program supporting insurer unless it is required by subsection (1) of this section to be a program participating insurer.

(3) An insurer who elects to be a program participating insurer may elect to participate under the following conditions:

  (a) Network-based insurers may limit coverage to the benefit plans offered to persons residing in the geographic area covered by the providers network; and

  (b) A group insurer may elect to be a program participating insurer without otherwise operating in the individual market.

(4) The department shall publicize a monthly list of program participating insurers.

(5) (a) The provisions of Sections 15 to 23 of this Act shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, or CHAMPUS insureds.

  (b) Self-insured health benefit plans covering employees of institutions of higher education and self-insured plans covering elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts shall not be subject to the provisions of Sections 15 to 23 of this Act.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

  (a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

  (b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

  (c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under Section 2 of this Act;

  (d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

  (e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

  (a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

  (b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits

under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

(3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high risk individuals rather than using the criteria established in subsection (19) of Section 1 of this Act and Section 14 of this Act for high cost conditions;

(b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the commissioner. Before the insurer may implement the mechanism, the insurer shall obtain approval of the commissioner. Annually thereafter, the insurer shall obtain the commissioner's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On the date the individual first becomes eligible for coverage under a guaranteed acceptance program plan the individual may be charged a premium of up to:

(1) One hundred fifty percent (150%) of the index rate charged to a person of identical or similar case characteristics who has not been diagnosed or treated with a high-cost condition if the individual in the immediate preceding sixty-three (63) day period, excluding any waiting or affiliation period, was not covered under any creditable coverage during the entire sixty-three (63) day period; or

(2) The maximum as provided in Section 10 of this Act, if the individual in the immediate preceding sixty-three (63) day period, excluding any waiting or affiliation period, had creditable coverage during any part of the sixty-three (63) day period.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, program plans shall contain cost containment features, which may include managed care and utilization management, to control the amount of high-cost policy losses without creating excessive adverse health care outcomes.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the department, in a form and at the time as the department by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of program plans in force as of December 31;

(c) The amount of the insurer's program plan premiums received during the calendar year covered by the report;

(d) The amount of the insurer's program plan claims paid during the calendar year covered by the report;

(e) The amount of the insurer's program plan losses; and

(f) Other information as the department may, by administrative regulation, require to be reported to operate the program.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of program plan premiums for all reporting insurers;

(c) The total amount of program plan claims paid by all reporting insurers;

(d) The amount of total actual program plan losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within forty-five (45) days after the reporting deadline.

(3) The department shall assess or refund to the insurers the amounts calculated and reported in subsection (2)(e) of this section.

(4) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the amount calculated in subsection (2)(e) and assessed by the department in accordance with subsection (3) of this section.

(5) The department shall assess stop-loss carriers in accordance with subsection (3)(c) of Section 22 of this Act. The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessment provided in subsection (3)(c) of Section 22 of this Act.

(6) The department may prepare quarterly estimated calculations for the purposes of allowing insurers who participate in the program to budget for their annual assessments and refunds.

(7) The department shall conduct such examinations of insurers participating in the plan as is reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a risk adjustment process to be used in collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of allocating program plan losses among such insurers.

(2) As part of the risk adjustment process, the department shall establish and maintain a program account. All funds in the program account shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS) and its successors.

(3) The program account shall be funded from the following sources:

(a) Appropriations from the General Assembly;

(b) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(c) Annual assessments from each stop-loss carrier in an amount which is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

(d) An assessment for each calendar year, or the last six (6) month period of 1998, on the total amount of all health benefit plan premiums written during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the assessment is based. The first assessment shall be for the period from July 1, 1998, to December 31, 1998, shall be based on the amount of health benefit plan premiums written during this six (6) month period, and the total amount of the assessment against all insurers for this six (6) month period shall equal three million nine hundred thousand dollars ($3,900,000). The percentage rate used to determine this six (6) month period assessment shall be the maximum percentage that may be used to determine the assessment in any subsequent calendar year. Assessments in any subsequent year shall be paid on or before the last day of that calendar year, and the first assessment shall be paid on or before December 31, 1998.

(e) Any special assessments under subsection 4(b) of this section;

(f) Gifts, grants, or other voluntary contributions; and

(g) Interest or other earnings on the investment of the monies held in the account.

(4) After the end of each calendar year, the department shall calculate the amount of the total actual program plan losses incurred by all insurers for the calendar year. The first calculation shall be for the calendar year ended December 31, 1998.

(a) If the amount of total actual program plan losses is less than the amount in the program account, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account.

(b) If the amount of total actual program plan losses is more than the amount in the program account, then the difference shall be considered a program account deficit, and there shall be a second assessment, in addition to the assessment under subsection 3(d) of this section, on all insurers who received any of the health benefit plan premiums on which the assessment under subsection 3(d) is based. The second assessment shall also be a percentage of the health benefit plan premiums except for the following limitations:

1. The percentage rate may not exceed the percentage rate used to determine the 1998-1999 assessment, and

2. The total amount generated from the additional assessment may not exceed the lesser of the program *account deficit or seven million eight hundred thousand dollars ($7,800,000). If the second assessment fully eliminates the program account deficit, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account. If the second assessment does not fully eliminate the program account deficit, each insurer shall be reimbursed up to its proportional share of program plan losses from the program account in the same proportion that the insurer's program plan losses bears to the total program plan losses of all insurers.*

(c) In no event shall the sum of the first assessment provided for in subsection (3)(d) of this section and the second assessment provided for in paragraph (b) of this subsection be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums written during the prior assessment period.

(5) With respect to an insurer who reasonably will be expected to both pay assessments and receive payments from the program account, the department shall calculate the net amount owed to or to be received from the program account, and the department shall only collect assessments or make payments from the program account based upon net amounts.

(6) Insurers paying an assessment may include in any health insurance rate filing that amount of such assessments as provided in Section 21 of this Act.

(7) Any surpluses remaining in the program account after completion of the risk adjustment process for a calendar year shall be maintained for use in the risk adjustment process for future calendar years and such funds shall not lapse. The General Fund appropriations to the program account shall not lapse.

(8) Assessments on health benefit plan premiums that are required under this section shall not be applied to premiums received by an insurer for Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

(9) Program plan losses attributable to plans issued to individuals who do not have a high-cost condition shall be reimbursed only after reimbursement is made for losses attributable to plans issued to individuals with a high-cost condition.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the operations of the program. The report shall contain an evaluation of the program, an evaluation of issues concerning individuals with high-cost conditions, and recommendations for establishing alternative means of providing health benefit plans for those individuals in addition to, or as an alternative to, the risk adjustment mechanism of the program. In order to determine the effectiveness of the program in providing access and affordable insurance to individuals with high-cost conditions and in readjusting the risks of providing health benefit plans to such individuals, the department shall determine:

(a) The number of individuals with high-cost conditions;

(b) The number of program plans; and

(c) The reasons that any program plans are terminated.

(2) Beginning no later than June 30, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the program, and the costs of the audit shall be born by the program. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the department.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Coverage of an individual who is not a state employee or a small group which on the effective date of this Act is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after the effective date of this Act.

(2) The state employee health insurance fund established under KRS 18A.2281 shall be deemed an insurer as defined in Section 1 of this Act only for the coverage it provides to individuals not state employees or to small groups and only until such time as this coverage terminates in accordance with subsection (1) of this section.

(3) The state employee health insurance fund established under KRS 18A.2281 shall be subject to assessments and reimbursements under Sections 15 to 23 of this Act only for the premium collected and the claims paid for individuals who are not state employees and the small groups which are covered by the fund.

(4) Except as provided in this section, the state employee health insurance fund established under KRS 18A.2281 shall not be deemed an insurer for any other purpose in this chapter and, in no event, at any time more than twelve (12) months after the effective date of this Act shall it be deemed to be an insurer.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

As used in Sections 25 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(6) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(7) "Insurer" has the meaning provided in Section 1 of this Act;

(8) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(9) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(10) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(11) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(12) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 26 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to

urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, *procedure, drug, or device is involved;*

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in the state in which he or she is employed, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of

complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of the effective date of this Act.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information concerning the patient from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization or continuation of mental health and chemical dependency health services to be provided to the patient, or for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific written consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 25 to 39 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 25 to 39 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the date ninety (90) days after the effective date of this Act, unless it and the insurer meet the requirements of Sections 25 to 39 of this Act.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall

comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) All assessments placed on insurers under Section 21 of this Act;

(b) All rating restrictions placed on employer-organized associations under Section 11 of this Act;

(c) All rate review requirements placed on insurers under this subtitle;

(d) All data collection requirements placed on insurers under this subtitle; and

(e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

(a) Total cost per health and medical service per insured group per month:

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) Percentage of insured who received each service.

SECTION 42. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical service, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 43. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is created within the department a consumer protection and education division, which shall include an office of ombudsman.

Section 44. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer[~~ as defined in KRS 304.17A-100~~], agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) ***It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.***

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 22 of this Act. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 45. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 46. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 47. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter,***[~~standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 48. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 7 -- Investments;

(7) Subtitle 12 -- Trade Practices and Frauds;

(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(9) Subtitle 17A -- Health Benefit Plans;

(10)[~~ Subtitle 18 -- KRS 304.18-050;~~

~~(11)~~] Subtitle 25 -- Continuity of Management;

(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(13)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

Section 49. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose ***duties***[~~duty~~] shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) ***The council shall***[~~At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following~~]:

(a) ***Review and discuss*** the design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];

(b) ***Review and discuss*** the rate-filing process for all health benefit plans;

(c)[~~ The definition of high-risk conditions;~~

~~(d)~~] ***Review and discuss*** the administrative regulations concerning this subtitle to be promulgated by the department;[~~ and~~]

(d)[~~(e)~~]***Make recommendations on high-cost conditions as provided in subsection (5) of this section; and***

(e) ***Review and discuss*** other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under Sections 1(19) and 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 50. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child,

authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 51. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 52. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 53. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~ All insurers and self insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~

~~a. Cost paid by insurer;~~

~~b. Cost paid by insured; and~~

~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 54. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

  (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
  (b) Chiropractors licensed pursuant to KRS Chapter 312;
  (c) Dentists licensed pursuant to KRS Chapter 313;
  (d) Optometrists licensed pursuant to KRS Chapter 320;
  (e) Physician assistants regulated pursuant to KRS Chapter 311;
  (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
  (g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose

students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) [~~(a) "Mandatory alliance member" means:~~

~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;~~

~~2. Elected and salaried employees of local school districts;~~

~~3. Employees of local and district health departments;~~

~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~

~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***;***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justice, judges, clerks, deputy clerk, and all other employees of the Judicial Department.

Section 55. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health benefit plan, the plan or insurer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) On the basis of a genetic test, for which symptoms have not manifested; or

(b) On the basis that the participant or beneficiary has requested or received genetic services.

(3) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan or an insurer offering a disability income plan may not request or require an applicant, participant, or beneficiary to disclose to the plan or insurer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

(5) For purposes of this section, unless the context requires otherwise:

(a) "Health benefit plan" has the meaning given it in Section 1 of this Act; and

(b) "Insurer" has the meaning given it in Section 1 of this Act.

Section 56. KRS 304.38-080 is amended to read as follows:

(1) Each enrollee residing in this state shall be entitled to evidence of health care services provided and the same shall be issued and delivered to him by the health maintenance organization, be it in the form of a contract, certificate, or other comparable document. Such evidence shall state clearly the total amount of payment for health care services and any indemnity or service benefits which the enrollee is obligated to pay with respect to such health care services.

(2) Each health maintenance organization shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

[~~(3) After a health maintenance organization has been in operation for twenty-four (24) months, it shall have an open enrollment period at least every year under which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment, except as may be otherwise determined and authorized by the commissioner. Such organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unreasonable charges for enrollee coverage for health care service; which application the commissioner shall approve or deny within fifteen (15) days of the receipt thereof from such organization.~~]

Section 57. KRS 216B.250 is amended to read as follows:

(1) For purposes of this section, "paying patient" means persons receiving health care services who pay directly for services rendered, patients with private health insurance or health maintenance organization coverage, persons receiving Medicaid or Medicaid benefits under Title XVIII and Title XIX of the Social Security Act and persons receiving veteran's health care benefits. "Paying patient" does not include medically indigent persons with no source of payment whatsoever.

(2) ***(a)*** When a copy of an itemized statement is requested by any paying patient, each health facility shall furnish to the patient within thirty (30) days of the patient's discharge or within fifteen (15) days of the patient's request, whichever is later, one (1) copy free of charge of the itemized statement of services rendered and charges incurred

by the patient.

(b) An itemized statement of services rendered and charges incurred by the patient shall be included with the invoice sent by a health facility to the patient.

(c) The itemized statement shall be stamped "Kentucky Revised Statutes prohibit the use of this statement for insurance payment purposes where benefits have been assigned."

(3) Each health facility shall post in a publicly visible place in their admission, outpatient areas and, where applicable, emergency areas that an itemized statement is available to any paying patient upon request.

(4) The itemized statement rendered shall be the record maintained by the health facility that details the charges made for services rendered to patients and shall indicate whether an assignment of benefits has been obtained.

(5) Each health facility shall designate and make available appropriate staff to provide, upon patient request, an explanation of charges listed in the itemized statement.

(6) If a health facility knows of a discrepancy in the total charges as reported in an itemized statement and that which is reported to a third party payor, or at any time that a health facility becomes aware of such a discrepancy, the health facility shall provide the patient and third party payor with notification, an explanation and, if applicable, any reconciliation of the discrepancy in total charges.

Section 58. KRS 304.18-020 is amended to read as follows:

(1) "Group health insurance" is hereby declared to be that form of health insurance covering groups of persons as defined in this section, with or without one (1) or more members of their families or one (1) or more of their dependents, or covering one (1) or more members of the families or one (1) or more dependents of such groups of persons, and issued upon the following basis:

(a) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer (except as to policies insuring only against aviation or transportation hazards). The term "employees" as used in this paragraph shall be deemed to include the officers, ***directors,*** managers and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, ***directors,*** managers and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract or otherwise. The term "employees" as used in this paragraph may include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officers. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring members, employees or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used in this paragraph may include ***directors of corporate members and*** retired employees.

(c) Under a policy issued to the trustees of a fund established by two (2) or more employers in the same or related industry or by one (1) or more labor unions or by one (1) or more employers and one (1) or more labor unions or by an association as defined in paragraph (b), which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or of such association, or employees of members of such association, for the benefit of persons other than the employers or the unions or such association. The term "employees" as used in this paragraph may include the officers, ***directors,*** managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used in this paragraph may include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(d) Under a policy issued to a creditor insuring a group of debtors, as defined in KRS 304.16-040, and under the same conditions and limitations as specified in such section, but the amount in indemnity payable with respect to any person insured thereunder shall not at any time exceed the aggregate of the periodic scheduled unpaid installments.

(e) Under a policy issued to any other person or organization to which a policy of group life insurance may be issued or delivered in this state to insure any class or classes of individuals that could be insured under such group life policy.

(f) Under a policy issued to cover any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a group health policy or contract.

(2) Any group health policy which contains provisions for the payment by the insurer of benefits for expenses incurred on

account of hospital, nursing, medical or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group.

Section 59. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 60. Effective July 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

304.17A-130 Risk adjustment process -- Authority for administrative regulations.

Section 61. To carry out the purposes of this Act, there is appropriated to the Kentucky Guaranteed Acceptance Program account out of the general fund in the State Treasury the sum of ten million dollars ($10,000,000) for fiscal year 1997-1998.

Section 62. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Floor Amendment No. 25 to the Senate Committee Substitute to **HB 315** is as follows:

On page 100, after line 12 and before line 13, by inserting the following:

"SECTION 59. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.

(2) Health benefit plans using a defined network of health care providers shall cover emergency department screening and stabilization services both in-network and out-of-network without prior authorization for use consistent with the prudent layperson standard.

(3) Emergency department personnel shall contact a patient's primary care provider or health benefit plan, as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care."; and

By renumbering subsequent sections accordingly.

The Senate Floor Amendment No. 28 to the Senate Committee Substitute to **HB 315** is as follows:

On page 63, line 26, by deleting all new text in its entirety through page 64, line 6, and by inserting in lieu thereof, the following:

"***(3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.***"; and

On page 64, line 7, by deleting "***(5)***" and inserting "***(4)***" in lieu thereof.

The Senate Floor Amendment No. 24 to the Senate Committee Substitute to **HB 315** is as follows:

On page 97, line 16, by deleting "***An itemized***" and inserting in lieu thereof "***A summary***"; and

On page 97, line 18, after "***patient.***" by adding "***Each invoice shall indicate that an itemized statement may be obtained upon request. The Cabinet for Human Resources shall impose a civil fine of five hundred dollars ($500) for each***

violation by a health care facility for failure to provide an itemized statement as required under KRS 216B.250.".

The Senate Floor Amendment No. 21 to the Senate Committee Substitute to **HB 315** is as follows:

On page 101, after line 6 and before line 7, by inserting the following:

"Section 61. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam; ~~[and]~~

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:
   a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
   b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
   c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(i) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the

deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections."; and

On page 101, line 7, by deleting "61" and inserting in lieu thereof "62"; and

On page 101, line 10, by deleting "62" and inserting in lieu thereof "63".

The Senate Floor Amendment No. 33 to the Senate Committee Substitute to **HB 315** is as follows:

On page 100, after line 12 and before line 13, by inserting the following:

"Section 59. KRS 142.311 is amended to read as follows:

(1) A tax is hereby imposed on pharmacies or any other provider, dispensing or delivering in a suitable container outpatient prescription drugs in this state, at the rate of twenty-five cents ($0.25) per prescription for which any initial payment is received on or after July 15, 1994.

(2) The provisions of this section, and so much of KRS 142.303 and 142.307 that may impose a tax on prescription drugs, expire June 30, 1999."; and

By renumbering the subsequent sections accordingly.

Representative Damron moved that the House concur in the Senate Committee Substitute to **HB 315**. Agreed.

Representative DeWeese moved that the House concur in Senate Floor Amendment No. 25 to the Senate Committee Substitute to **HB 315**. Agreed. Representative DeWeese moved that the House concur in Senate Floor Amendment No. 28 to the Senate Committee Substitute to **HB 315**. Agreed.

Representative Crall moved that the House concur in Senate Floor Amendment No. 24 to the Senate Committee Substitute to **HB 315**. Agreed.

Representative Damron moved that the House concur in Senate Floor Amendment No. 21 to the Senate Committee Substitute to **HB 315**. Agreed. Representative Damron moved that the House concur in Senate Floor Amendment No. 33 to the Senate Committee Substitute to **HB 315**. Agreed.

Representative Damron moved that **HB 315** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 12 (See March 31, 1998 roll call on **HB 315** - Appendix.) **HB 315**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 315**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Deskins moved the adoption of the following **Legislative Citation No. 237**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its most sincere admiration and highest regard for Marlow Tackett East Kentucky's most favorite son. For if it can be said that the greatness of an individual is earned by those who reach success by giving every effort, every degree of energy, enthusiasm and hard work within them; then surely it can be attributed to the honorable Marlow Tackett. Not only is said recipient a man of distinction who holds the poor and the vulnerable close to his heart but he is a person of unique talent who has shared the splendor of Nashville and recognition by Billboard Magazine eight times with his phenomenal ability to make a guitar speak and has used his good fortune to create a music showcase for three states where talented individuals entertain the mountains at "Marlowe's Country Palace." Therefore, the prestigious body of the Kentucky House of Representatives doth join Representative Herbie Deskins, Jr. in recognizing the astounding accomplishments of this exceptional individual and the extraordinary kindness of his heart for his fellow man and the rare talent that he shares so readily with his neighbors. Marlow Tackett indeed is the remarkable individual who seeks not greatness but satisfaction in a life well lived. **Legislative Citation No. 237** was adopted without objection.

Speaker Pro-Tempore L. Clark presiding.

Roll call to show co-sponsors of **Legislative Citation No. 237** (See March 31, 1998, roll call - Appendix.)

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Cox moved the adoption of the following **Legislative Citation No. 238**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Campbellsville University Lady Tigers Basketball Team upon advancing to the third round of the 1998 NAIA National Tournament in Jackson, Tennessee. Under the leadership of Head Coach Donna Wise, this exceptional group of athletes finished the season with an impressive 26-8 record and made their tenth appearance in the National Tournament as Mid-South Conference Champions as a #6 seed, the highest seed ever attained by the Lady Tigers. Inasmuch as the members of this extraordinary team have exhibited hard work, persistent dedication and exceptional team spirit and have contributed greatly to the winning tradition of the Campbellsville University Lady Tigers Program, this prestigious body joins Representative Ricky Cox in recognizing the amazing talent of this team, applauding its spectacular achievements and extending best wishes for continued success in all future endeavors. **Legislative Citation No. 238** was adopted without objection.

Speaker Richards resumed the Chair.

Representative Stumbo moved that the rules be suspended to allow floor privileges to a special guest and to introduce and act upon a Resolution.

HR 157, by Representative Gray: A RESOLUTION adjourning the House of Representatives in honor of Mark S. Brown upon the occasion of his imminent retirement.

Representative Gray moved the adoption of the following **HR 157**:

HR 157, A RESOLUTION adjourning the House of Representatives in honor of Mark S. Brown upon the occasion of his imminent retirement.

WHEREAS, when we reflect upon the contributions Mark S. Brown has tirelessly given for the past 14 years to the citizens of this Commonwealth, we are reminded that ethics and integrity have played a large part toward his achievement as an outstanding legislator, and his accomplishments shall serve as an example for those who succeed him; and

WHEREAS, the honorable representative of the 27th legislative district, Mark S. Brown, has ably served his constituents; during his tenure as a member of the Kentucky House of Representatives he has served as: Chair of the House Budget Subcommittee on General Government, Finance & Public Protection; Vice chair of the House Natural Resources & Environment Committee; Chairman of the Subcommittee on Environment of the Natural Resources & Environment Committee; Chairman of the Capitol Projects & Bond Oversight Committee; a member of the Appropriations and Revenue Committee, Veterans Affairs Subcommittee, Labor & Industry Committee, Workforce Development Subcommittee of the Labor & Industry Committee, and Rules Committee; and represents the Kentucky General Assembly on the National Energy Board; and

WHEREAS, Mark Brown has distinguished himself as a leader in the environmental field with a record of significant legislative achievements that he sponsored: to mention only a few, he created a center for hazardous waste reduction that is a successful, low cost, non-regulatory program to help small businesses avoid generating hazardous waste; he was a key participant on complete rewrites of the state's solid waste management laws and the waste tire management laws; he sponsored legislation to encourage markets for recyclable materials; and he established, for the first time, funding dedicated for the purposes of the state's conservation of its unique natural lands; and

WHEREAS, the gentleman from Meade and Hardin Counties stands very tall as he reaches down to protect our beautiful Commonwealth and her inhabitants, and he has placed his "MARK" on the lives of many citizens in the Commonwealth of Kentucky, always turning otherwise "BROWN" days into sunny skies; and

WHEREAS, this 1998 Regular Session of the Kentucky General Assembly will be the last opportunity we will have to share the companionship, support, and eloquent discourse of our colleague and friend, Mark S. Brown;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hails and commends our distinguished colleague, Mark S. Brown, for his immeasurable contributions to this great Commonwealth, and we wish to him, upon his imminent retirement, continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Mark S. Brown.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Mark S. Brown, 170 Washington Street, Brandenburg, Kentucky 40108.

There being no objection **HR 157** was adopted. Roll call to show co-sponsors of **HR 157**: (See March 31, 1998, roll call - Appendix)

Representative Coleman moved that the Conference Committee Report on **HB 226** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 226**.

HB 318, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 318** is as follows:

On page 11, line 19, to insert an opening bracket following "(b)" and to strikethrough the remainder of the line; and

On page 11, line 20, to delete the opening bracket; and

On page 11, line 21, to delete the closing bracket and to strikethrough the remainder of the line; and

On page 11, lines 22 through 25 to strike through the same; and

On page 11, line 26, to delete the "*(c)*" and to place a closing bracket following the "*(c)*".

The Senate Floor Amendment No. 2 to **HB 318** is as follows:

On page 10, line 1, following "purpose" to insert "*, unless the person carrying the concealed deadly weapon has a concealed deadly weapon license and is the pastor of the church or an officer of the church*"

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 318**. Agreed. Representative Damron moved that the House concur in Senate Floor Amendment No. 2 to **HB 318**. Agreed.

Representative Damron moved that **HB 318**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 76, Nays 9 (See March 31, 1998 roll call on **HB 318** - Appendix.) **HB 318**, as amended by the Senate, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 318**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 332, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 332** is as follows:

AN ACT relating to the contracting out of government services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 and Section 6 of this Act, unless the context requires otherwise:

(1) "Privatize" means to contract out in order to procure the services of a private vendor to provide a service that is similar to, and in lieu of, a service provided by state employees of the privatizing agency;

(2) "Privatization contract" means an agreement or combination of a series of agreements by which a private vendor agrees to provide services that are substantially similar to, and in lieu of, services previously provided, in whole or in part, by at least ten (10) permanent, full-time, budgeted employees of the state agency. This term includes but is not limited to concession contracts. This term does not include personal service contracts as defined in KRS 45A.690, contracts entered into pursuant to KRS Chapter 176, 177, 178, 179, 180, or 181, Medicaid provider contracts, architect and engineering contracts entered into pursuant to KRS 45A.800 to 45A.835, price contracts, construction contracts, or memoranda of understanding or memoranda of agreements; and

(3) "Services" shall not include administration and support functions of government. "Administration and support functions" shall include, but not be limited to, construction contracts, bond counsel and bond underwriting services, architect and engineering services, price contracts, personal service contracts, and memoranda of understanding and memoranda of agreement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Upon approval of the Finance and Administration Cabinet, a state agency may enter into a privatization contract.

(2) Before a state agency recommends to the Finance and Administration Cabinet that it enter into a privatization contract, the state agency shall determine and set forth in writing:

(a) The necessity for the service and the intended goals of the service;

(b) Problems and inefficiencies existing with the current governmental operation of the service; and

(c) Whether the service can efficiently be provided by the agency.

(3) If the state agency determines that the service cannot efficiently be provided by the agency, the state agency shall be permitted to continue the normal contracting process for the service. However, if the state agency determines that the service can efficiently be provided by the agency and the state agency chooses to proceed with privatization, it shall set forth in writing to the Finance and Administration Cabinet:

(a) The tangible benefits of privatizing the service;

(b) Any state or federal legal restraints that may limit or prevent privatization of the government service;

(c) The availability of multiple qualified and competitive private vendors;

(d) 1. A cost-benefit analysis comparison that shall include, but not be limited to, collection and analysis of the total assessible fixed and variable, direct and indirect, costs of:

a. The current governmental operation; and

b. The private vendor contract.

2. The costs shall include, but not be limited to:

a. Facility and equipment maintenance;

b. Inflation-adjusted costs, where comparison to past years is being conducted;

c. Transition costs associated with shifting the service delivery from the government agency to a private vendor;

d. Costs of monitoring, evaluating, and enforcing the contract;

e. Personnel costs such as those providing for benefits, early retirements, retraining, and relocation in another position; and

f. A plan for resuming government operation of the service if the privatization effort fails.

(e) A plan of assistance for all state employees who will be adversely affected by privatizing the service. The plan shall include at least:

1. Efforts to place affected employees in vacant positions in another state agency and to retrain employees for another position in state government;

2. Provisions in the contract, if feasible, for the hiring by the contractor of displaced employees at wages and benefits comparable to the wages and benefits paid to the state employees, subject to the provisions of Section 6 of this Act; and

3. Prior notification to affected state employees the day the contract is signed, or three (3) months before the day the adverse effect will occur, whichever is earlier; and

(f) A process for monitoring, evaluating, and enforcing a contract with a private vendor which shall include, but not be limited to:

1. Development of a method for ongoing, comprehensive performance evaluation of the private vendor; and

2. Establishment of performance criteria and standards to evaluate the private vendor.

(4) All information required by subsections (2) and (3) of this section shall be submitted to the Finance and Administration Cabinet for its review and approval prior to proceeding with the contracting provisions of KRS Chapter 45A.

(5) The state agency shall retain responsibility for ensuring the quality and reliability of the services.

(6) All records in the possession of a state agency in conjunction with the approval, evaluation, or enforcement of a privatization contract unless exempt under another statute shall be public records, access to which shall be governed by KRS 61.870 to 61.884.

(7) Any other statute to the contrary notwithstanding, all records prepared, owned, used, in the possession of, or retained by a state agency in conjunction with the approval, evaluation, or enforcement of a privatization contract shall be public records, access to which shall be governed by KRS 61.870 to 61.884.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The Finance and Administration Cabinet shall develop an objective and systematic process for evaluating the information in subsections (2) and (3) of Section 2 of this Act for use in determining whether to approve privatization of a government service.

(2) The process shall be adopted by administrative regulation promulgated by the Finance and Administration Cabinet in accordance with KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) After approval of a privatization contract by the Finance and Administration Cabinet and issuance and execution of the privatization contract, the contracting agency shall annually evaluate the performance of the contract and report its findings to the Governor, the Auditor of Public Accounts, and the Legislative Research Commission.

(2) The state agency entering into the contract shall provide for an evaluation of the performance of any privatization contract awarded in excess of five hundred thousand dollars ($500,000) annually. The review shall include but not be limited to determining whether the contractor is complying with all applicable statutory requirements and the provisions of the contract. The performance evaluation shall be forwarded to the Auditor of Public Accounts and the Legislative Research Commission. The evaluation shall be subject to review by the Auditor of Public Accounts, who shall report any findings to the Legislative Research Commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The provision of Sections 1 to 5 and 6 of this Act shall not apply to privatization contracts awarded prior to the effective date of this Act, or any renewals thereof.

Section 6. KRS 11A.130 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit an officer or public servant employed by an agency that is privatized from accepting employment from the person or business which is operating that agency *if the officer or public servant was not*

involved in making the decision to privatize or in developing the provisions of the privatization contract.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 332** is as follows:

On page 1, line 17, after the word "***agreements***" by inserting the following language: "***or program administration contracts with the Cabinet for Human Resources, including contracts for child support collections and enforcement with contracting officials as authorized by KRS 205.712***".

Representative G. Graham moved that the House concur in the Senate Committee Substitute to **HB 332**. Agreed. Representative G. Graham moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative G. Graham moved that **HB 332** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 31, 1998 roll call on **HB 332** - Appendix.) **HB 332**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 332**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 393, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that **HB 393** be placed back in the Orders of the Day. Agreed.

HB 423, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 423** is as follows:

AN ACT relating to disaster and emergency response activity.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.433 is amended to read as follows:

(1) [~~Neither~~]The state ***and its***[~~nor any~~] political ***subdivisions***[~~subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof,~~] shall ***not*** be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer[~~ disaster and emergency services or~~] disaster and emergency response worker, or ***volunteer*** member of any agency engaged in[~~ disaster and emergency services or~~] disaster and emergency response activity ***under the provisions of KRS 39.400 to 39.460***. The foregoing shall not affect the right of any ***volunteer***[~~person~~] to ***qualify for***[~~receive~~] benefits[~~ or compensation to which he might otherwise be entitled~~] under the Workers' Compensation Law or KRS 39.417 and 39.418 hereof or any pension law or any act of Congress.

(2) [~~Neither~~]The state ***and its***[~~nor any~~] political ***subdivisions***[~~subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary disaster and emergency services or disaster and emergency response worker or member of any agency engaged in any disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with KRS 39.400 to 39.460 and 39.990, or any order, rule, or regulation promulgated pursuant to the provisions of KRS 39.400 to 39.460 and 39.990, or other precautionary measures enacted by any city of the state,~~] shall ***not*** be liable for the death of or injury to persons, or for damage to property, as a result of any ***disaster and emergency response***[~~such~~] activity ***under the provisions of KRS 39.400 to 39.460***.

(3) Except in cases of willful misconduct, gross negligence, or bad faith, the following persons shall not be liable for the death or injury to persons, or for damage to property, as a result of disaster and emergency response activity when complying with or reasonably attempting to comply with the provisions of KRS 39.400 to 39.460:

(a) Employees, agents, or representatives of the state and its political subdivisions;

(b) Any volunteer or auxiliary disaster and emergency response worker enrolled or registered with a local disaster and emergency services organization or with the division in accordance with the division's administrative regulations; or

(c) Any member of any agency engaged in any disaster and emergency response activity.

(4) While engaged in disaster and emergency response activity, volunteers and auxiliary disaster and emergency response workers enrolled or registered with a local disaster and emergency services organization or with the division shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work, including the provisions of KRS 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of any civil action brought against a

volunteer enrolled or registered with a local disaster and emergency services organization or with the division due to an act or omission made in the scope and course of a disaster and emergency response activity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) Disaster and emergency response functions provided by a state or local emergency management agency, or any emergency management agency-supervised operating units or personnel officially affiliated with a local disaster and emergency services organization pursuant to Section 35 of 1998 House Bill 453, shall not, in itself, be deemed to be the making of a promise, or the undertaking of a special duty, towards any person for the services, or any particular level of, or manner of providing, the services; nor shall the provision of or failure to provide these services be deemed to create a special relationship or duty towards any person upon which an action in negligence or other tort might be founded. Specifically:

(a) The failure to respond to a disaster or other emergency, or to undertake particular inspections or types of inspections, or to maintain any particular level of personnel, equipment, or facilities, shall not be a breach of any duty to persons affected by any disaster or other emergency.

(b) When a state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, does undertake to respond to a disaster or other emergency, the failure to provide the same level or manner of service, or equivalent availability or allocation of resources as may or could be provided, shall not be a breach of any duty to persons affected by that disaster or other emergency.

(c) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization shall not have or assume any duty towards any person to adopt, use, or avoid any particular strategy or tactic in responding to a disaster or other emergency.

(d) A state or local emergency management agency, or local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, in undertaking disaster and emergency preparedness or prevention activities including inspections, or in undertaking to respond to a disaster or other emergency, shall not have voluntarily assumed any special duty with respect to any risks which were not created or caused by it, nor with respect to any risks which might have existed even in the absence of that activity or response, nor shall any person have a right to rely on such an assumption of duty.

(2) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any of its political subdivisions, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management agency member, or disaster and emergency services member, or disaster and emergency response worker, or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection. This immunity shall not affect the right of any person to receive benefits or compensation to which the person might otherwise be entitled under the Workers' Compensation Law, or this chapter, or any pension law, or any act of Congress.

(3) Subject to subsection (6) of this section, neither the state nor any political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any of its political divisions, nor any volunteer or auxiliary emergency management agency or disaster and emergency services organization member or disaster and emergency response worker or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with this chapter or any order or administrative regulation promulgated pursuant to the provisions of this chapter, or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of that activity. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or an organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

(4) Decisions of the director, his subordinates or employees, a local emergency management director, or the local director's subordinates or employees, a rescue chief or the chief's subordinates, concerning the allocation and assignment of personnel and equipment, and the strategies and tactics used, shall be the exercise of a discretionary,

policy function for which neither the officer nor the state, county, urban-county, charter county, or city, or local emergency management agency-supervised operating unit formally affiliated with a local disaster and emergency services organization, shall be held liable in the absence of malice or bad faith, even when those decisions are made rapidly in response to the exigencies of an emergency.

(5) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of the real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster or emergency, together with his or her successors in interest, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about the real estate or premises for loss of, or damage to, the property of that person. The immunity provided by this subsection shall not apply to the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance for an act or omission covered by this subsection. To the extent that the state, a political subdivision of the state, or a person or organization maintains liability insurance or self-insurance, sovereign immunity shall not be claimed with regard to an act or omission covered by this subsection.

(6) Subsection (3) of this section shall apply to a volunteer or auxiliary disaster and emergency response worker only if the volunteer or worker is enrolled or registered with a local disaster and emergency services organization or with the division in accordance with the division's administrative regulations.

(7) While engaged in disaster and emergency response activity, volunteers and auxiliary disaster and emergency response workers enrolled or registered with a local disaster and emergency service organization or with the division in accordance with subsection (6) of this section shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work, including the provisions of KRS 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of any civil action brought against a volunteer enrolled or registered with a local disaster or emergency service organization or with the division due to an act or omission made in the scope and course of a disaster and emergency response activity.

Section 3. Section 2 of this Act shall only take effect if House Bill 453 of this 1998 Regular Session becomes law, and Section 2 of this Act shall supersede Section 24 of that bill.

Representative Scott moved that the House concur in Senate Committee Substitute to **HB 423**. Agreed.

Representative Scott moved that **HB 423**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 31, 1998 roll call on **HB 423** - Appendix.) **HB 423**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Scott moved that the vote by which **HB 423**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 495, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 495** is as follows:

AN ACT relating to fiscal courts regulating traffic on county roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.230 is amended to read as follows:

(1) The department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection *(3)*~~[(2)]~~ of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department *or fiscal court*~~[or county judges/executive]~~ may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

(3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person

shall not operate any motor truck or semitrailer truck contrary to its provisions.

(4) A fiscal court shall require all persons applying for a permit issued under Section 2 of this Act to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under Section 2 of this Act. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under Section 2 of this Act. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.

(5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.

(6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a cooperative agreement with a fiscal court, the permit issued under Section 2 of this Act shall immediately be revoked by the fiscal court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "materials" shall mean cargo, whether divisible or nondivisible, that a motor vehicle transports in the usual and ordinary course of business and shall specifically include, but not be limited to, agricultural products, minerals, or natural resources transported by a motor vehicle.

(2) A fiscal court may issue special permits to the owners, operators, or lessees of motor vehicles for the purpose of hauling materials whose gross weight or dimensions, including vehicle and load, exceeds the limits prescribed by KRS 189.210 but that do not exceed the maximum weight limits established in KRS 189.222. A permit shall be issued for specified materials only and shall designate the portions of the fiscal court-owned road over which the vehicle may operate under the permit. The permit shall be issued for a stated period of time not to exceed one (1) year and shall be upon the terms and conditions as the fiscal court may, in its discretion, require. The fiscal court shall require, as a condition to issuing the permit, that the applicant pay a reasonable fee to be fixed by the fiscal court, and enter into a cooperative agreement under the provisions of Section 1 of this Act. The operation of any motor vehicle in accordance with the terms of the permit shall not constitute a violation of this chapter, if the operator has a valid permit, or a copy of a valid permit, in his or her possession.

(3) The fiscal court shall not issue a permit under this section for a vehicle whose dimensions, including vehicle and load, exceed the maximum dimension limits established in KRS 189.222.

(4) A person shall not operate a motor vehicle in violation of the terms and conditions of any permit issued by the fiscal court under this section.

(5) A fiscal court may:

- ***(a) Exercise general supervision for administering and enforcing the provisions of this section.***
- ***(b) Adopt ordinances regulating the issuance of a permit, including but not limited to matters concerning the duration of permits and weight limits for various types of vehicles, materials, and highways.***
- ***(c) Adopt rules and regulations governing the amount, terms and conditions of a bond, and the sufficiency of the surety of any bond required by this section.***
- ***(d) Issue, continue in effect, revoke, modify, or deny a permit issued under this section.***

Section 3. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) ***or subsection (4) of Section 1 of this Act***, any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above, may haul up to eighty thousand (80,000) pounds gross

weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270,[~~ or~~] 189.271***, or Section 2 of this Act,*** shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60)[~~ nor more than five hundred dollars ($500)~~].

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280,[~~ or~~] 189.490, ***or the dimension provisions of Section 2 of this Act,*** for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Representative Gooch moved that the House concur in Senate Committee Substitute to **HB 495**. Agreed.

Representative Gooch moved that **HB 495**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 83, Nays 7 (See March 31, 1998 roll call on **HB 495** - Appendix.) **HB 495**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 495**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 511** is as follows:

On page 2, line 26, by deleting all new language after "***college***"; and

On page 2, line 27 by deleting the new language "***college less than three (3) years,***"; and

On page 3, line 1, after the underlined period, by deleting all remaining new language; and

On page 3, by deleting lines 2 through 4 in their entirety.

Representative Yonts moved that the House concur in Senate Committee Amendment No. 1 to **HB 511**. Agreed.

Representative Yonts moved that **HB 511**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 31, 1998 roll call on **HB 511** - Appendix.) **HB 511**, as amended by the Senate, was passed and the title agreed to. Representative Yonts moved that the vote by which **HB 511**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 551, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 551** is as follows:

On page 4, between lines 25 and 26, by inserting the following:

"29. Janice K. Lawrence..$338.92
4014 Gingerwood Drive
Louisville, Kentucky 40220".

Representative Stacy moved that the House concur in Senate Committee Amendment No. 1 to **HB 551**. Agreed.

Representative Stacy moved that **HB 551**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 31, 1998 roll call on **HB 551** - Appendix.) **HB 551**, as amended by the Senate, was passed and the title agreed to. Representative Stacy moved that the vote by which **HB 551**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 582, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 582** is as follows:

AN ACT relating to the unauthorized switching of a customer's telecommunications provider.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Telecommunications provider" or "provider" means a person that provides one (1) or more telecommunications services for compensation, and its successors in interest by way of acquisition or merger, and includes a provider of regulated and unregulated intrastate services offered to customers for the transmission of two-way, interactive communications. "Telecommunications provider" or "provider" does not include a provider of commercial mobile radio services as defined in 47 U.S.C. sec. 332(d)(1).

(b) "Letter of agency" means a written statement that authorizes a change of the customer's telecommunications provider and bears the customer's signature.

(2) A customer of a telecommunications provider shall not be switched to another provider without the customer's letter of agency or the electronically recorded authorization of the customer, indicating that the customer knowingly approved the specific details of the switch. The requirement of a written or electronically recorded authorization shall not apply if the customer initiates a call to the customer's local telephone service provider to request that his long-distance provider be changed. When a customer's service is changed, the new provider shall maintain for one (1) year a record of nonpublic customer-specific information that establishes that the customer authorized the change. In any dispute, the burden of proof to show that the customer knowingly authorized the change shall be on the provider that claims to have obtained customer authorization for the switch.

(3) If a letter of agency is combined with an inducement, or with information on a subject other than the change of a customer's telecommunications provider, whether or not the letter of agency can be easily severed from the rest of the document, then the language whereby a person authorizes service from the provider shall be printed in a type

size as large or larger than the largest type used in the document that includes the letter of agency.

(4) If a telecommunications provider initiates a switch of provider that the customer has not authorized under this section, that provider, upon request by the customer, shall reverse the change within five (5) business days.

(5) The customer subjected to a change that is not verified consistent with this section or administrative regulations promulgated under this section is not responsible for any charges associated with the unauthorized change, including charges for usage subsequent to the change that are in excess of the amount the customer would have paid had the service not been changed, if the customer contacts the customer's local exchange carrier, the customer's previous provider of intrastate service, or the telecommunications provider that initiated an unauthorized change in service within one hundred eighty (180) days after receipt of the customer's first bill containing charges by the telecommunications provider that initiated the unauthorized change. A telecommunications provider that has initiated an unauthorized customer change shall:

(a) Pay all charges associated with returning the customer to the customer's original telecommunications provider;

(b) Return to the customer any amount paid to the provider by the customer or on the customer's behalf in excess of the amount the customer would have paid had the service not been changed; and

(c) Upon request, provide all billing records to the original provider from which the customer was changed to enable the original provider to comply with this section.

The telecommunications provider that initiated the unauthorized change is responsible for any payment to access providers or to an underlying carrier where applicable. Failure of the customer to provide timely notice will relieve the telecommunications provider that initiated the unauthorized change of any obligations under this subsection.

(6) If the commission finds that a provider has willfully or repeatedly violated this section or an administrative regulation promulgated under it, the commission shall order the provider to take corrective action as necessary. The commission may impose a penalty on the violator as specified in KRS 278.990 (1), except that the maximum civil penalty to be assessed for each violation of this section shall be ten thousand dollars ($10,000). The commission also may, if consistent with the public interest, suspend, restrict, or revoke any certificate or registration of the telecommunications provider, thereby denying the provider the authorization to provide telecommunications service in the Commonwealth.

(7) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the policies of this section.

Representative D. D. Butler moved that the House concur in Senate Committee Substitute to **HB 582**. Agreed.

Representative D. D. Butler moved that **HB 582**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 31, 1998 roll call on **HB 582** - Appendix.) **HB 582**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative D. D. Butler moved that the vote by which **HB 582**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 583** is as follows:

On page 3, line 20, after "*person*" by deleting "*with a legitimate interest,*" ; and

On page 8, line 5, after "*person*" by deleting "*with a legitimate interest,*".

Representative Hoffman moved that the House concur in Senate Committee Amendment No. 1 to **HB 583**. Agreed.

Representative Hoffman moved that **HB 583**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 31, 1998 roll call on **HB 583** - Appendix.) **HB 583**, as amended by the Senate, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 583**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 641, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 641** is as follows:

On page 1, line 8, after "stepchildren", by inserting "*grandchildren,*".

Representative Colter moved that the House concur in Senate Committee Amendment No. 1 to **HB 641**. Agreed.

Representative Colter moved that **HB 641**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 641** - Appendix.) **HB 641**, as amended by the Senate, was passed and the title agreed to. Representative Colter moved that the vote by which **HB 641**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 649, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 649** is as follows:

AN ACT relating to the practice of pharmacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) The board shall establish an impaired pharmacist committee to promote the early identification, intervention, treatment, and rehabilitation of pharmacists and pharmacist interns who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any other physical or mental condition.

(2) The board may enter into a contractual agreement with a nonprofit corporation, pharmacy professional organization, or similar organization for the purpose of creating, supporting, and maintaining an impaired pharmacist committee.

(3) The board may promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate and implement the provisions of this section.

(4) Beginning July 15, 1998, the board shall collect an assessment of ten dollars ($10) to be added to each licensure renewal application fee payable to the board. This assessment shall be expended by the board on the operation of the impaired pharmacist committee.

(5) Members of an impaired pharmacist committee, any administrator, staff member, consultant, agent, volunteer, or employee of the committee acting within the scope of his or her duties and without actual malice and all other persons who furnish information to the committee in good faith and without actual malice shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the committee or by any individual member of the committee.

(6) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the impaired pharmacist committee, all communications to or from the committee, and all proceedings, findings, and conclusions of the committee, including those relating to intervention, treatment, or rehabilitation, that in any way pertain or refer to a pharmacist or pharmacist intern who is or may be impaired shall be privileged and confidential.

(7) All records and proceedings of the committee that pertain or refer to a pharmacist or pharmacist intern who is or may be impaired shall be privileged and confidential, used by the committee and its members only in the exercise of the proper function of the committee, not be considered public records, and not be subject to court subpoena, discovery, or introduction as evidence in any civil, criminal, or administrative proceedings, except as described in subsection (8) of this section.

(8) The committee may only disclose the information relative to an impaired pharmacist or pharmacist intern if:

  (a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired pharmacist or pharmacist intern;

  (b) The release is authorized in writing by the impaired pharmacist or pharmacist intern; or

(c) The committee is required to make a report to the board pursuant to KRS 315.121.

Section 2. KRS 333.040 is amended to read as follows:

This chapter applies to all medical laboratories within the State of Kentucky, except:

(1) Medical laboratories operated by the United States government;

(2) Medical laboratories operated by a licensed physician, or a group of licensed physicians, solely and exclusively in connection with the diagnosis and treatment of their own patients; if any referred work is received or performed by such medical laboratories, all provisions of this chapter shall apply;

(3) Medical laboratories operated by hospitals licensed by the secretary for human resources;

(4) Medical laboratories operated and maintained exclusively for research purposes, involving no patient or public health service whatsoever;

(5) Medical laboratories operated by facilities holding a permit pursuant to KRS 315.035 and holding a valid certification issued pursuant to the Clinical Laboratory Improvement Act of 1988 (CLIA), as amended, solely and exclusively in connection with assisting a patient with the use of CLIA-waived tests available from the facility's stock or inventory, and in connection with testing and treatment of patients covered under collaborative care agreements

established under KRS 315.010 and other applicable laws. If any referred work is received or performed by these medical laboratories, all provisions of this chapter shall apply.

Section 3. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;

(2) "Association" means the Kentucky Pharmacists Association;

(3) "Board" means the Kentucky Board of Pharmacy;

(4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;

(5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;

(6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;

(7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;

(8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(9) "Drug" means any of the following:
  (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or
  (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or
  (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or
  (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

(10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:
  (a) Evaluation of prescription drug orders and patient records for:
    1. Known allergies;
    2. Rational therapy contraindications;
    3. Appropriate dose and route of administration;
    4. Appropriate directions for use; or
    5. Duplicative therapies.
  (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
  (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
  (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;

(11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

(12) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;

(13) "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;

(14) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;

(15) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(16) "Pharmacist intern" means a natural person who is:

(a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

(b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or

(d) An individual participating in a residency or fellowship program approved by the board for internship credit;

(17) "Pharmacy" means every place where:

(a) Drugs are dispensed under the direction of a pharmacist;

(b) Prescription drug orders are compounded under the direction of a pharmacist; or

(c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

(18) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

(19) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection, administration of medication in the course of dispensing or maintaining a prescription drug order, and drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

(20) "Practitioner" has the same meaning given in KRS 217.015(23);

(21) "Prescription drug" means a drug which:

(a) Under federal law is required to be labeled with either of the following statements:

1. "Caution: Federal law prohibits dispensing without prescription"; or

2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

(22) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

(23) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;

(24) "Society" means the Kentucky Society of Health-Systems Pharmacists;

(25) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

(26) "Wholesaler" means any person~~[within the Commonwealth]~~ who legally buys drugs for resale or distribution to persons other than patients or consumers.

Section 4. KRS 315.065 is amended to read as follows:

(1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional competency to practice in the public interest.

(2) No pharmacist's license shall be renewed until the license holder is able to submit written proof to the board that he has satisfactorily completed, in the previous renewal period, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board, provided the course described in KRS 214.610(1) is included, but they shall not require more than an average of *one and one-half (1-1/2)*[~~fifteen (15)~~] continuing education units (CEU) per year.

(3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

SECTION 5. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) A pharmacy shall be allowed to place drugs with a home health agency's authorized employees and with a hospice's authorized employees for the betterment of public health. The pharmacy shall remain the legal owner of the drugs.

(2) A written agreement between the pharmacy and home health agency or hospice shall document the protocol for the handling and storage of the drugs by authorized employees and shall be approved by the pharmacist in charge.

(3) The pharmacist in charge shall review the protocol to assure that safe, secure and accountable handling of controlled legend drugs is maintained under the protocol before giving approval.

(4) The pharmacist in charge or a pharmacist designee shall physically inspect and review the drug storage and handling at the home health agency and the hospice not less than annually.

(5) The home health agency and the hospice protocol shall include, but not be limited to, the following:

(a) Safe and secure storage of drugs;

(b) Access to drugs limited to authorized employees;

(c) Records of drugs checked out to authorized employees and records of drugs, amounts and to whom and by whom administered;

(d) Prompt notification of the pharmacy when a drug is used, including the prescriber, patient, drug, dosage form, directions for use and other pertinent information;

(e) Billing information;

(f) Procedures for handling drugs beyond their expiration date; and

(g) Inventory control.

(6) The following legend drugs shall be allowed under these agreements:

(a) Sterile water for injection or irrigation;

(b) Sterile saline solution for injection or irrigation;

(c) Heparin flush solution;

(d) Diphenhydramine injectable;

(e) Epinephrine injectable;

(f) Glucagon;

(g) Influenza vaccine; and

(h) Pneumonia vaccine.

(7) As used in this section:

(a) "Authorized employee" means any employee of a home health agency or hospice who, in the course of the employee's duties, is licensed by the employee's appropriate licensing agency to administer legend drugs;

(b) "Home health agency" means an entity required to be licensed under KRS Chapter 216; and

(c) "Hospice" means an entity authorized to hold itself out to the public as a hospice or as a licensed hospice pursuant to KRS Chapter 216.

(8) The cabinet shall promulgate administrative regulations to implement the provision of this Act to become effective by October 15, 1998.

Representative Barrows moved that the House concur in Senate Committee Substitute to **HB 649**. Agreed.

Representative Barrows moved that **HB 649**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 31, 1998 roll call on **HB 649** - Appendix.) **HB 649**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 649**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 739, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 739** is as follows:

On page 1, lines 13 to 14, by deleting "***Notwithstanding a filing made to perfect a security interest in the place set forth in KRS 355.9-401***" and inserting in lieu thereof "***In addition to the filings required by KRS 355.9-401, 355.9-402, 355.9-403, 355.9-404, 355.9-405, 355.9-406, and 355.9-407***"; and

On page 1, line 19, by deleting "***filing***" and inserting in lieu thereof "***filings***"; and

On page 2, after line 3, by adding:

"***(5) The filings in the Office of the Secretary of State required under this section are for information purposes only and are not intended to convey notice or constitute perfection. Any legal reliance shall be on the basis of the requirements of KRS 355.9-401 and the filings required under KRS 355.9-401.***".

Representative Bruce moved that the House concur in Senate Floor Amendment No. 1 to **HB 739**. Agreed.

Representative Bruce moved that **HB 739**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 31, 1998 roll call on **HB 739** - Appendix.) **HB 739**, as amended by the Senate, was passed and the title agreed to. Representative Bruce moved that the vote by which **HB 739**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 756, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 756** is as follows:

On page 2, line 2 after "***used***" by deleting all text through line 4 and inserting in lieu thereof:

"***as determined by the cabinet for working families whose income exceeds the state income eligibility limits for child day care assistance.***"

Representative Crenshaw moved that the House concur in Senate Committee Amendment No. 1 to **HB 756**. Agreed.

Representative Crenshaw moved that **HB 756**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 6 (See March 31, 1998 roll call on **HB 756** - Appendix.) **HB 756**, as amended by the Senate, was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 756**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 393, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 393** is as follows:

On page 1, line 8, following "***division***", by inserting "***. However, this shall not include or apply to any and all aircraft assigned to, owned, leased, operated, or controlled by the Department of State Police, or otherwise under the control or direction of the Department of State Police. The operation, maintenance, scheduling, and care of Department of State Police aircraft shall not be included under or affected by Sections 1 to 6 of this Act.***"

The Senate Floor Amendment No. 2 to **HB 393** is as follows:

On page 5, line 12, by deleting "***with the following exceptions:***", and inserting "***except that,***" in lieu thereof; and

On page 5, by deleting lines 13 and 14 in their entirety; and

On page 5, line 15, by deleting "***(b)***".

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 393**. Agreed. Representative Long moved that the House refuse to concur in Senate Floor Amendment No. 2 to **HB 393**. Agreed.

HB 673, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 673** is as follows:

AN ACT relating to wireless enhanced emergency 911 systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Administrator" means the state administrator of CMRS emergency telecommunications.

(2) "Automatic location identification", or "ALI" means an enhanced 911 service capability that enables the automatic

display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification."

(3) "Automatic number identification", or "ANI" means an enhanced 911 service capability that enables the automatic display on an ALI screen of the ten-digit, or equivalent, wireless telephone number used to place a 911 call.

(4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. sec. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line.

(5) "CMRS Board" or "board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky.

(6) "CMRS connection" means a mobile handset telephone number assigned to a CMRS customer.

(7) "CMRS customer" means a person to whom a mobile handset telephone number is assigned and to whom CMRS is provided in return for compensation.

(8) "CMRS Fund" means the commercial mobile radio service emergency telecommunications fund.

(9) "CMRS provider" means a person or entity who provides CMRS to an end user, including resellers.

(10) "CMRS service charge" means the CMRS emergency telephone service charge levied under subsection (3) of Section 5 of this Act and collected under Section 8 of this Act.

(11) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof.

(12) "Local exchange carrier" or "LEC" means any person or entity who is authorized to provide telephone exchange service or exchange access in the Commonwealth.

(13) "Local government" means any city, county, charter county, or urban-county government of the Commonwealth, or any other governmental entity maintaining a PSAP.

(14) "Mobile telephone handset telephone number" means the ten (10) digit number assigned to a CMRS connection.

(15) "Proprietary information" means information held as private property, including customer lists and other related information, technology descriptions, technical information, or trade secrets.

(16) "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face.

(17) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies.

(18) "Service supplier" means a person or entity who provides local exchange telephone service to a telephone subscriber.

(19) "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911 service," or "wireless E911 service" means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features in accordance with the requirements of the FCC order.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or their designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except

that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator, appointed by the Governor under Section 3 of this Act, and other staff authorized under Section 5 of this Act, the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the Finance and Administration Cabinet for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under Section 6 of this Act to be used by the board for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall appoint a state administrator of commercial mobile radio service emergency telecommunications, subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the CMRS Board. The administrator shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment. The CMRS Board shall set the administrator's compensation, which shall be paid from that portion of the CMRS fund that is authorized under subsection (1) of Section 6 of this Act to be used by the board for administrative purposes.

(2) The administrator of CMRS emergency telecommunications shall serve as a member of the CMRS Board, and as the coordinator and administrative head of the board and shall conduct the day-to-day operations of the board.

(3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve wireless enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:

(a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;

(b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state; and

(c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

There is established the commercial mobile radio service emergency telecommunications fund, the "CMRS fund," an insured, interest-bearing account to be administered and maintained by the CMRS Board. The CMRS service charge shall have uniform application within the boundaries of the Commonwealth. No charge other than the CMRS service charge is authorized to be levied by any person or entity for providing wireless 911 service or wireless E911 service. The board shall deposit all revenues derived under Section 8 of this Act into the fund, and shall direct disbursements from the fund according to the provisions of Section 6 of this Act. Moneys in the CMRS fund shall not be the property of the Commonwealth and shall not be subject to appropriation by the General Assembly. Moneys deposited or to be deposited into the CMRS fund shall not:

(1) Be loaned to the Commonwealth or to any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by Sections 1 to 12 of this Act; or

(3) Be expended for any purpose other than a purpose authorized by Sections 1 to 12 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The board shall administer the provisions of Sections 1 to 12 of this Act, and shall have the following powers and duties:

(1) To review, evaluate, and approve or disapprove the plans or plan modifications that are submitted to the board for complying with the wireless E911 service requirements established by the FCC order and by any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order;

(2) To develop standards to be followed by the board in reviewing, evaluating, approving, or disapproving the plans or plan modifications that are submitted to the board;

(3) To collect the CMRS service charge from each CMRS connection within the Commonwealth. The CMRS service charge shall be seventy cents ($0.70) per month per CMRS connection, and shall be collected in accordance with

Section 8 of this Act beginning August 15, 1998. The amount of the CMRS service charge shall not be increased except by act of the General Assembly;

(4) To review the rate of the CMRS service charge at least once every eighteen (18) months and, at its discretion, to decrease the rate or recommend that the General Assembly increase the rate if the board determines that changing the rate is necessary to achieve the purposes of Sections 1 to 12 of this Act. The first cost study shall be completed on or before July 1, 1999, and shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and the board shall recommend, on the basis of the cost study, whether legislation to increase the CMRS service charge should be proposed during the 2000 Regular Session of the General Assembly;

(5) To administer and maintain the CMRS fund according to the provisions of Section 4 of this Act, and promptly to deposit all revenues from the CMRS service charge into the CMRS fund;

(6) To make disbursements from the CMRS fund, according to the allocations and requirements established in Section 6 of this Act;

(7) To establish procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements made in accordance with Section 6 of this Act;

(8) To resolve conflicts regarding reimbursable costs and expenses under subsections (2) and (3) of Section 6 of this Act;

(9) To submit annual reports to the Auditor of Public Accounts no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS fund during the preceding fiscal year and all disbursements to CMRS providers and PSAPs during the preceding fiscal year;

(10) To employ consultants, engineers, and other persons and employees as may be, in the judgment of the board, essential to the board's operations, functions, and responsibilities, and to fix and pay their compensation from funds available to the CMRS board;

(11) To acquire, by gift, purchase, installment purchase, or lease, any equipment necessary to carry out the board's purposes and duties;

(12) To retain any and all information, including all proprietary information, that is submitted to the board by CMRS providers and PSAPs, for the purposes of maintaining it and verifying its accuracy;

(13) To retain, with approval by the Auditor of Public Accounts, an independent certified public accountant who shall audit, once every eighteen (18) months, the books of the board, CMRS providers, and PSAPs eligible to request or receive disbursements from the CMRS fund under Section 6 of this Act for the following purposes:

(a) To verify the accuracy of collection, receipts, and disbursements of all revenues derived from the CMRS service charge and the number of wireless E911 calls received by each PSAP eligible to request or receive disbursements from the CMRS fund; and

(b) To determine whether the revenues generated by the CMRS service charge equal, exceed, or are less than the costs incurred in order to comply with the FCC order.

The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs. The board shall incorporate the auditor's findings in its studies of the CMRS service charge required by subsection (4) of this section. All information with respect to the audits shall be released to the public or published only in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to individual CMRS providers;

(14) To ensure that all carriers have an equal opportunity to participate in the wireless E911 system; and

(15) To ensure that wireless E911 systems are compatible with wireline E911 systems.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.

(1) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board, including the compensation of the administrator and expenses incurred pursuant to subsections (10), (11), and (13) of Section 5 of this Act.

(2) From the balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsection (1) of this section have been subtracted, fifty percent (50%) shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (4) of this section who actually request disbursement, as follows:

(a) Twenty-five percent (25%) shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (4) of this section; and

(b) Twenty-five percent (25%) shall be distributed according to the "PSAP volume formula," whereby each receives a percentage determined by dividing the number of wireless E911 calls received by that PSAP in the previous quarter by the total number of wireless E911 calls received in the previous quarter by all PSAPs located within the boundaries of the Commonwealth that are eligible to receive and actually requesting disbursements under subsection (4) of this section.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, and of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

(3) The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1) and (2) of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order, or for payment of any costs incurred by a CMRS provider exceeding one hundred twenty-five percent (125%) of the CMRS emergency service charges remitted by that CMRS provider, unless prior approval for the expenditures was given by the CMRS Board. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month, based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.

(4) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (2) of this section unless and until the PSAP:

(a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;

(b) Demonstrates that the PSAP is located within the boundaries of a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or establishing other means of funding wireline 911 emergency telephone service;

(c) Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;

(d) Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year; and

(e) Either demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service, or provides to the board a binding resolution, duly adopted by the governing authority of the PSAP, committing the PSAP to expend funds to lease or purchase emergency telephone equipment, including necessary computer hardware and software, for database provisioning, for addressing, and for the other nonrecurring costs of establishing wireless E911 service.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The CMRS Board shall implement the provisions of Sections 1 to 12 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

(2) As soon as practicable after its creation, the board shall promulgate regulations:

(a) Establishing procedures for the submission of plans or modifications of plans to the board, for its review and approval or disapproval, for complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, projections of anticipated costs and

expenses necessary for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining on an ongoing basis all necessary data, hardware, and software required in order to provide this service;

(b) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving the plans or modifications of plans that are submitted to it in accordance with the procedures promulgated under paragraph (a) of this subsection;

(c) Establishing procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements under subsection (2) and (3) of Section 6 of this Act; and

(d) Establishing procedures and guidelines for resolving disputes regarding reimbursable costs and expenses under subsections (2) and (3) of Section 6 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each CMRS provider shall act as a collection agent for the CMRS fund and shall, as part of the provider's normal monthly billing process, collect the CMRS service charges levied upon CMRS connections under subsection (2) of Section 5 of this Act from each CMRS connection to whom the billing provider provides CMRS. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge. If a CMRS provider receives a partial payment for a monthly bill from a CMRS customer, the provider shall first apply the payment against the amount the CMRS customer owes the CMRS provider.

(2) A CMRS provider has no obligation to take any legal action to enforce the collection of the CMRS service charges for which any CMRS customer is billed. Collection actions to enforce the collection of the CMRS service charge against any CMRS customer may, however, be initiated by the state, on behalf of the board, in the Circuit Court of the county where the bill for CMRS service is regularly delivered, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

(3) State and local taxes shall not apply to CMRS service charges.

(4) To reimburse itself for the cost of collecting and remitting the CMRS service charge, each CMRS provider may deduct and retain from the CMRS service charges it collects during each calendar month an amount not to exceed one and one-half percent (1.5%) of the gross aggregate amount of CMRS service charges it collected that month.

(5) All CMRS service charges imposed under Sections 1 to 12 of this Act collected by each CMRS provider, less the administrative fee described in subsection (4) of this section, are due and payable to the board monthly and shall be remitted on or before sixty (60) days after the end of the calendar month. Collection actions may be initiated by the state, on behalf of the board, in the Franklin Circuit Court or any other court of competent jurisdiction, and the reasonable costs and attorneys' fees which are incurred in connection with any such collection action may be awarded by the court to the prevailing party in the action.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Not withstanding any other provision of law, no CMRS provider or service supplier, nor their employees, directors, officers, or agents, except in cases of negligence, or wanton or willful misconduct, or bad faith, shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, establishing, participating in, implementing, maintaining, or providing access to a CMRS system for the purposes of providing wireless 911 service or E911 service in compliance with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC orders: in connection with the quality of the service; in connection with ensuring that any 911 call goes through properly; or in connection with providing access to CMRS service in connection with providing wireless 911 service or E911 service.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Each CMRS provider shall provide customer mobile handset telephone numbers and names to PSAPs when required by the board. Each CMRS provider shall provide a quarterly report to the board of the number of calls the provider forwarded to each PSAP during that quarter. Funds from the CMRS fund may be used to pay for the costs associated with providing this information. Although customer mobile handset telephone numbers and names shall be available to PSAPs, and to the board, this information shall remain the property of the disclosing CMRS provider and shall be used only in providing emergency response services to 911 calls. Mobile handset telephone numbers and names which are required to be provided under this section constitute confidential proprietary information and shall not be released to any person for purposes other than for including the numbers and names in the emergency telephone system database and for providing the numbers and names to permit a response to police, fire, medical, or other emergency situations. Notwithstanding any other provision of the law, no proprietary information provided to PSAPs under this section shall be subject to subpoena of the PSAP or otherwise released to any person other than to the submitting CMRS provider, the administrator, the board, and the

independent certified public accountant retained by the board under subsection (13) of Section 5 of this Act without the express permission of the submitting CMRS provider. General information collected by the independent certified public accountant shall only be released or published in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Wireless emergency telephone service shall not be used for personal use but shall be used solely for the purpose of communications by the public in emergency situations. Any person who knowingly uses or attempts to use wireless emergency telephone service for a purpose other than obtaining public safety assistance or who knowingly uses or attempts to use wireless emergency telephone service in an effort to avoid any CMRS charges shall be guilty of a Class A misdemeanor. If the value of the wireless emergency telephone service obtained in a manner prohibited by this section or the value of the CMRS charges exceeds one hundred dollars ($100), the offense may be prosecuted as a Class D felony.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 of this Act shall not be construed as enabling the Commonwealth of Kentucky, including the Public Service Commission of Kentucky, to regulate CMRS in contravention of Section 332(c)(3) of the Communications Act of 1934, as amended, 47 U.S.C. sec. 332(c)(3).

Section 13. KRS 65.750 is amended to read as follows:

As used in KRS 65.755 and 65.760***:***[~~,~~]

(1) "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to ***place calls to a public safety answering point on a twenty-four (24) hour basis and*** reach local emergency service agencies[~~ on a twenty-four (24) hour basis,~~] by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services. ***The term "911 emergency telephone service" includes the term wireline "enhanced 911 system," which means an emergency telephone system that provides the caller with wireline emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and may provide the capability for automatic number identification, pseudo-automatic number identification, selective routing, and automatic location identification features. The term "911 emergency telephone service" does not include the term "wireless enhanced 911 system," "wireless enhanced 911 service," or "wireless E911 service" as used in Sections 1 to 12 of this Act.***

(2) For the purposes of this section:

- ***(a) "Automatic location identification," or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification."***
- ***(b) "Automatic number identification," or "ANI" means an enhanced 911 service capability that enables the automatic display on the ALI screen of the ten (10) digit, or equivalent, wireless telephone number used to place a 911 call.***
- ***(c) "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face.***
- ***(d) "Public safety answering point" or "PSAP" means a communication facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies.***

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 673** is as follows:

On page 11, line 18, by striking "***located within the boundaries of***" and replacing it with "***providing 911 services to***"; and

On line 20, by striking "***establishing***" and replacing it with "***has established***"; and

On page 16, line 15, by deleting Section 13 in its entirety, and by replacing it with

"Section 13. KRS 65.750 is amended to read as follows:

As used in ***this section to*** KRS[~~ 65.755 and~~] 65.760***:***[~~,~~]

(1) "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to ***place calls to a public safety answering point on a twenty-four (24) hour basis and*** reach local emergency service agencies [~~on a twenty-four (24) hour basis,~~] by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services. *The term "911 emergency telephone service" includes the term wireline "enhanced 911 system," which means an emergency telephone system that provides the caller with wireline emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and may provide the capability for automatic number identification, pseudo-automatic number identification, selective routing, and automatic location identification features. As used in KRS 65.760, the term "911 emergency telephone service" does not include the term "wireless enhanced 911 system," "wireless enhanced 911 service," or "wireless E911 service" as used in Sections 1 to 12 of this Act;*

(2) "Automatic number identification (ANI)" means a feature that allows for the automatic display of the ten (10) digit number, or equivalent, used to place a 911 call;

(3) "Automatic location identification (ALI)" means a feature by which the name and address associated with the calling party's telephone number is made available to a PSAP;

(4) "Automatic location identification data management system (ALI/DBS)" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(5) "Dispersed private telephone system (DPTS)" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures but does not mean a multiline, shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;

(6) "Fully enhanced 911 emergency telephone service" means a telephone network feature that selectively routes calls placed to the national 911 emergency number to the proper public service answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(7) "Private branch exchange (PBX)" means a privately owned switch system that connects calls to a telephone company;

(8) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(9) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber; and

(10) "Station identification number (SIN)" means a number that a DPTS uses to identify a specific station on the switch."

Representative Barrows moved that the House concur in the Senate Committee Substitute to **HB 673**. Agreed. Representative Barrows moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative Barrows moved that **HB 673** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 7 (See March 31, 1998 roll call on **HB 673** - Appendix.) **HB 673**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 673**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 785, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 785** is as follows:

On page 7, On line 11, By inserting the following new section:

"Section 3. There is hereby established a Medicaid Managed Care Oversight Advisory Committee, five (5) Senate members of which shall be appointed by the Senate President and five (5) House of Representatives members of which shall be appointed by the Speaker of the House. The Committee shall meet at least four (4) times annually and shall provide oversight on the implementation of Medicaid managed care within the Commonwealth including access to services, utilization of services, quality of services, and cost containment."

Representative Nunn moved that the House concur in Senate Committee Amendment No. 1 to **HB 785**. Agreed.

Representative Nunn moved that **HB 785**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 785** - Appendix.) **HB 785**, as amended by the Senate, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 785**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 114, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HCR 114** is as follows:

A CONCURRENT RESOLUTION directing a study relating to protection of the elderly from fraud and abuse.

WHEREAS, the Senior Citizens Advisory Commission of the Legislative Research Commission indicates that fraudulent crime against the elderly is swiftly on the rise; and

WHEREAS, the Senior Citizens Advisory Commission indicates that fraudulent crime against the elderly is one of the elderly's greatest concerns; and

WHEREAS, state and local police indicate that often they do not find out about the commission of these crimes until many days or months have passed because the victims feel ashamed; and

WHEREAS, the elderly continue to suffer from exploitation problems; and

WHEREAS, the state and local police and Attorney General's Office indicate that there needs to be more effective methods to educate the elderly about exploitation; and

WHEREAS, the Senior Citizens Advisory Commission indicates that there is an additional problem of the underreporting of abuse, neglect, and exploitation of the elderly; and

WHEREAS, protection of its people is a number one goal of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to undertake a study to determine the most common types of abuse, neglect, and exploitation of the elderly and the most effective approach to education and protection. The study shall include an assessment of the adequacy of current law, and the availability of appropriate methods of intervention. The study shall determine the need for coordination among city, county, state, and federal entities as it relates to prevention, education, and protection. The study shall include dialogue with and seek recommendations from professionals from law enforcement, health care, social work, mental health, long-term care ombudsmen, and staff from adult day care centers, senior citizen centers, hospitals, local health departments, nutrition centers, and other agencies or organizations that work with the elderly population and their families.

Section 2. The Interim Joint Committee on Health and Welfare shall report its findings and recommendations to the year 2000 Regular Session of the General Assembly.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Representative Palumbo moved that the House concur in Senate Committee Substitute to **HCR 114**. Agreed.

Representative Palumbo moved that **HCR 114**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HCR 114** - Appendix.) **HCR 114**, by way of Senate Committee Substitute, was adopted and the title agreed to. Representative Palumbo moved that the vote by which **HCR 114**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 49, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 49** is as follows:

By deleting Section 2 of the Act in its entirety beginning on page 2, line 21, and by inserting in lieu thereof the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

In counties with cities of the first class and cities within those counties, a permit to rebuild a commercial business on property contiguous to a river, and a permit to rebuild single-family dwellings on properties contiguous to a river, shall be issued if the construction plans meet the requirements of any local floodplain ordinance.".

Representative Bratcher moved that the House concur in Senate Committee Amendment No. 1 to **HB 49**. Agreed.

Representative Bratcher moved that **HB 49**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 31, 1998 roll call on **HB 49** - Appendix.) **HB 49**, as amended by the Senate, was passed and the title agreed to. Representative Bratcher moved that the vote by which **HB 49**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 539, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 539** is as follows:

AN ACT relating to liability insurance for members of the Kentucky National Guard.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 38 IS CREATED TO READ AS FOLLOWS:

The Adjutant General may purchase liability insurance for the protection of members of the Kentucky National Guard called to state active duty by the Governor under KRS 38.030 to protect them for acts, omissions, and claims arising while on state active duty, and while not otherwise covered by existing state government programs that provide medical coverage or protection for acts, omissions, or claims to members of the Kentucky National Guard while on state active duty. To provide coverage not provided by existing state government programs, the Adjutant General may purchase the type and amount of liability coverage deemed appropriate to best serve the interests of the Kentucky National Guard and its members.

Representative Weaver moved that the House concur in Senate Committee Substitute to **HB 539**. Agreed.

Representative Weaver moved that **HB 539**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 539** - Appendix.) **HB 539**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Weaver moved that the vote by which **HB 539**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 544, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 544** is as follows:

AN ACT relating to the judicial branch and making an appropriation therefor.

WHEREAS, a variety of Kentucky courts currently decide such matters as dissolution of marriage, spousal maintenance, child support, adoption, termination of parental rights, establishment of paternity, domestic violence, and juvenile offenses; and

WHEREAS, these decisions drastically affect Kentucky families; and

WHEREAS, dividing family jurisdiction among multiple courts increases the time and expense involved in resolving these often volatile cases and creates inordinate delay between intake and final resolution; and

WHEREAS, establishment of a court devoted exclusively to and specializing in complexities of family law whereby assignment of all related cases to a single judge enhances the quality of service received by families, promotes continuity of judicial decision making, and encourages development of expertise in the management and resolution of family law cases;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

(1) Eight (8) Family Court Pilot Projects are created in the following Supreme Court districts designated by the Chief Justice:

   (a) District 1, McCracken County;

   (b) District 2, Warren County;

   (c) District 3, Pulaski, Rockcastle, and Lincoln Counties;

   (d) District 5, Franklin County and Madison and Clark Counties;

   (e) District 6, Boone and Gallatin Counties; and

   (f) District 7, Floyd County and Pike County.

(2) The Supreme Court has certified the need for a total of nine (9) additional Circuit Court judgeships: one (1) each in Warren, Pike, and Franklin Counties, one (1) in Breckinridge, Grayson, and Meade Counties, one (1) in Pulaski, Rockcastle, and Lincoln Counties, one (1) in Madison and Clark Counties, one (1) in Green, Marion, Taylor, and Washington Counties, one (1) in Bourbon, Scott, and Woodford Counties and one (1) in Boone and Gallatin Counties.

(3) The Supreme Court has certified the need for a total of three (3) additional District Court judgeships, one (1) each in

Floyd County and McCracken County and one (1) in Barren and Metcalfe Counties.

SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

(1) A Chief Judge of Family Court shall be designated by the Chief Justice at each site identified in subsection (1) of Section 1 of this Act. When a Family Court has a single Family Court Judge, that Judge shall be designated Chief Judge. Each Family Court shall establish a Family Court Council to assist in developing and implementing each new site. The Council shall be multidisciplinary in nature and chaired by the Chief Judge of the Family Court. Each Council shall recommend local rules of Family Court. Pursuant to Supreme Court Rule 1.040(3)(a), local rules shall be written, approved by the Chief Justice, and filed with the Supreme Court Clerk.

(2) The Administrative Office of the Courts shall employ a statewide Family Court Coordinator to assist Family Courts with:

(a) Resource needs;

(b) Standardization of policies;

(c) Practices and procedures;

(d) Training;

(e) Automation;

(f) Data compilation and analysis;

(g) Budgetary needs; and

(h) Coordination of Family Court sites with community and outside agencies.

(3) Family Court jurisdiction shall include, but not be limited to, cases involving:

(a) Domestic or family issues or dissolution of marriage;

(b) Child custody;

(c) Visitation;

(d) Support and equitable distribution;

(e) Adoption and termination of parental rights;

(f) Domestic violence, including emergency protective orders;

(g) Noncriminal juvenile matters, including juvenile mental inquests and self-consent abortions;

(h) Paternity and URESA matters;

(i) Dependency, abuse, or neglect; and

(j) Status offenses, including truancy, unmanageable children, and runaways.

(4) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court and the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 3. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.

(2) Third Judicial Circuit.

(3) Sixth Judicial Circuit.

(4)[~~ Eighth Judicial Circuit.~~

~~(5)~~] Ninth Judicial Circuit.

(5) Eleventh Judicial Circuit.

(6) Fourteenth Judicial Circuit.

(7)[~~(6)~~] Seventeenth Judicial Circuit.

(8)[~~(7)~~] Twenty-fourth Judicial Circuit.

[~~(8) Twenty-fifth Judicial Circuit.~~]

(9) Twenty-seventh Judicial Circuit.

[~~(10) Twenty-eighth Judicial Circuit.~~]

(10)[~~(11)~~] Thirty-first Judicial Circuit.

(11)[~~(12)~~] Thirty-second Judicial Circuit.
(12)[~~(13)~~] Thirty-fourth Judicial Circuit.
(13)[~~(14)~~] ***Forty-sixth***[~~Thirty-fifth~~] Judicial Circuit.
(14)[~~(15)~~] ***Fifty-fourth***[~~Forty-eighth~~] Judicial Circuit.

SECTION 4. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) Eighth Judicial Circuit.
(2) Twenty-fifth Judicial Circuit.
(3) Twenty-eighth Judicial Circuit.
(4) Thirty-fifth Judicial Circuit.
(5) Forty-eighth Judicial Circuit.

Section 5. KRS 24A.010 is amended to read as follows:

(1) The District Court is a court of limited jurisdiction; it has original jurisdiction in all matters specified in KRS 24A.110 to 24A.130.

(2) The District Court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.

(3) The District Court has no appellate jurisdiction.

(4) The District Court is a court of record.

(5) The District Court is a court of continuous session. Sessions of the District Court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

(6) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 6. KRS 24A.120 is amended to read as follows:

(1) District Court shall have exclusive jurisdiction in:

(a)[~~(1)~~] Civil cases in which the amount in controversy does not exceed four thousand dollars ($4,000), exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;

(b)[~~(2)~~] Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(c)[~~(3)~~]Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of subsection (2) of this section and therefore are within the jurisdiction of the District Court.

(2) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 7. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1)[~~ Second Judicial District.~~
~~(2)~~] Third Judicial District.
(2)[~~(3)~~] Fourth Judicial District.
(3)[~~(4)~~] Ninth Judicial District.
(4)[~~(5)~~] Eleventh Judicial District.
(5)[~~(6)~~] Twelfth Judicial District.

(6)[~~(7)~~] Thirteenth Judicial District.

(7)[~~(8)~~] Fourteenth Judicial District.

(8)[~~(9)~~] Fifteenth Judicial District.

(9)[~~(10)~~] Eighteenth Judicial District.

(10)[~~(11)~~] Twenty-first Judicial District.

(11)[~~(12)~~] Twenty-fourth Judicial District.

(12)[~~(13)~~] Twenty-seventh Judicial District.

(13)[~~(14)~~] Twenty-eighth Judicial District.

(14)[~~(15)~~] Twenty-ninth Judicial District.

(15) Thirty-first Judicial District.

(16) Thirty-second Judicial District.

(17) Thirty-fourth Judicial District.

(18) Thirty-fifth Judicial District.

(19) Thirty-eighth Judicial District.

(20) Fortieth Judicial District.

(21) Forty-first Judicial District.

(22) Forty-third Judicial District.

(23)[~~(22)~~] Forty-sixth Judicial District.

(24)[~~(23)~~] Forty-eighth Judicial District.

(25)[~~(24)~~] Fiftieth Judicial District.

(26)[~~(25)~~] Fifty-first Judicial District.

(27)[~~(26)~~] Fifty-third Judicial District.

(28)[~~(27)~~] Fifty-fourth Judicial District.

(29)[~~(28)~~] Fifty-fifth Judicial District.

(30)[~~(29)~~] Fifty-sixth Judicial District.

Section 8. KRS 24A.060 is amended to read as follows:

The following judicial districts are entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court:

(1) ***Second Judicial District***

(2) Sixth Judicial District.

(3)[~~(2)~~] Eighth Judicial District.

(4)[~~(3)~~] Seventeenth Judicial District.

(5)[~~(4)~~] Twenty-fifth Judicial District.

Section 9. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the District Court:

(a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the District Court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, decedent, or trust; and

(b) The District Court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold. Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.

(a) In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice by certified mail, return receipt requested shall be given to all known adult next of kin of:

1. The nature and pendency of the action; and
2. Not less than thirty (30) days' notice of the time, date and location of the hearing on the motion. At or before the hearing, the fiduciary or his attorney shall file an affidavit on personal knowledge showing compliance with this paragraph and attaching a copy of the notice given and the original of all receipts returned.

(b) All such persons shall have standing to present evidence and to be heard at the hearing.

(4) An aggrieved party may no later than thirty (30) days from the date of the order, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 6 of this Act***[~~KRS 24A.120(2)~~] in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 10. KRS 391.035 is amended to read as follows:

(1) Whenever real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in such will, proceedings may be had in the District Court to determine the persons entitled to such property.

(2) (a) If an estate is in process of administration the executor, administrator or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or in the event the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;

(b) The motion shall set forth all of the facts known to movant relating to the matter, including the names, ages and addresses of all persons who are or may be entitled to share in such property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time (which shall not be less than twenty (20) days from the date of service) when the motion will come on for hearing.

(3) Upon the hearing on the motion any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each.

(5) In a case where some or all of the property is real estate located in this state a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120.

(6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 6 of this Act***[~~KRS 24A.120(2)~~].

(7) Any aggrieved party may no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 6 of this Act***[~~KRS 24A.120(2)~~].

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 11. KRS 395.617 is amended to read as follows:

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, shall also receive notice from the fiduciary by certified mail, return receipt requested, at least twenty (20) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made; shall indicate assets on hand and anticipated to be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement; and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom and which assets may be liquidated for distribution of cash or for payment of debts, costs of administration, or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part, and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. The inclusion of evidence and vouchers to

accompany the proposal shall not be necessary unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 6 of this Act***~~[KRS 24A.120(2)]~~.

Section 12. Unless otherwise noted in this section, the effective date of this Act is September 1, 1998. Subsections (5), (6), and (13) of Section 3 of this Act take effect January 1, 1999. The amendment removing the Eighth Judicial Circuit the Twenty-fifth Judicial Circuit, the Twenty-eighth Judicial Circuit and the Forty-eighth Judicial Circuit from former subsections (4), (8), (10), and (15) of Section 3 of this Act, subsections (1), (2), (3), and (5) of Section 4 of this Act, the amendment removing the Second Judicial District from former subsection (1) of Section 7 of this Act, and subsection (1) of Section 8 of this Act shall all take effect September 1, 1999. Subsection (22) of Section 7 of this Act takes effect January 1, 2000.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 544** is as follows:

By amending the title to read as follows: "AN ACT relating to the judicial branch."

Representative Bowling moved that the House concur in Senate Committee Substitute to **HB 544**. Agreed.

Representative Bowling moved that **HB 544**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 31, 1998 roll call on **HB 544** - Appendix.) **HB 544**, by way of Senate Committee Substitute, was passed. Representative Bowling moved that the House concur in Senate Committee Amendment No. 1 Title. Agreed; and the title was agreed. Representative Bowling moved that the vote by which **HB 544**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 608** is as follows:

AN ACT relating to the certification of fee-based pastoral counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 12 and 13 of this Act is to protect the public safety and welfare by providing for the certification and regulation of persons engaged in the practice of fee-based pastoral counseling. As such, it is not the intent of Sections 1 to 12 and 13 of this Act to advance or inhibit religion, to in any way affect the performance of ordinary duties or functions of the clergy, or to foster excessive government entanglement with religion.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Certification of Fee-Based Pastoral Counselors;

(2) "Certified fee-based pastoral counselor" or "certificate holder" means an ordained minister or the denominational equivalent who:

(a) Has completed a Master's of Divinity and an advanced degree program in pastoral counseling, or an equivalent course of study approved by the board, from an accredited seminary or other accredited educational institution;

(b) Is certified by the board; and

(c) Receives fees or other compensation for the practice of pastoral counseling.

(3) "Fee-based pastoral counseling" means the practice of pastoral counseling at an advanced level, equivalent to the standards of practice set by the American Association of Pastoral Counselors for the "fellow" level, that involves integrating spiritual resources with insights from the behavioral sciences, in exchange for a fee or other compensation.

(4) "Ordained minister or the denominational equivalent" means a person who has been called, elected, or otherwise authorized by a church, synagogue, denomination, or faith group through ordination, consecration, or equivalent means, to exercise within and on the behalf of the denomination or faith group specific religious leadership and service that furthers its purpose and mission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Certification of Fee-Based Pastoral Counselors is hereby created.

(1) The board shall be composed of five (5) members who shall be appointed by the Governor to serve four (4) year terms.

- *(a) Four (4) members shall be certified fee-based pastoral counselors actively engaged in the practice or teaching of pastoral counseling.*
- *(b) One (1) member shall be a citizen at large who is not associated with, or financially interested in, the practice or business of fee-based pastoral counseling.*

(2) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) nominees for each vacancy, submitted by the executive committee of the Kentucky Association of Pastoral Counselors. In selecting the three (3) nominees to be submitted to the Governor, the executive committee shall consider all nominations, including self-nominations, from all fee-based pastoral counselors certified under the provisions of Sections 1 to 12 of this Act.

(3) No member shall serve more than two (2) consecutive terms.

(4) The chair of the board may not serve more than two (2) years.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board shall meet at least twice a year, in the spring and the fall. The board shall elect a chair at the fall meeting who shall serve a one (1) year term. The board shall:

(1) Approve or deny applications for certification submitted according to the provisions of Sections 1 to 12 of this Act;

(2) Approve the examination required of applicants for certification, provide for the administration and grading of the examination, and provide for other matters relating to certification in the profession of fee-based pastoral counseling as promulgated in administrative regulations;

(3) Review the credentials of certificate holders to determine eligibility for certification renewal, including payment of fees authorized in Section 6 of this Act;

(4) Certify those fee-based pastoral counseling applicants who satisfy the requirements of Sections 1 to 12 of this Act, including payment of fees authorized in Section 5 of this Act;

(5) Adopt a code of ethics for certified fee-based pastoral counselors by promulgation of administrative regulations;

(6) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purposes of Sections 1 to 12 of this Act;

(7) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(8) Investigate suspected violations of Sections 1 to 12 of this Act;

(9) Institute and maintain actions to restrain or enjoin persons who violate the certification provisions of Sections 1 to 12 of this Act; and

(10) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board, any decisions rendered, and a current roster of all certified fee-based pastoral counselors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a fee-based pastoral counselor shall:

(1) Pay the board an initial fee for certification that shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A;

(2) Be at least twenty-one (21) years of age;

(3) Reside or be employed in the Commonwealth of Kentucky;

(4) Have completed a Master's of Divinity degree or its equivalent with a minimum of ninety (90) hours from a seminary accredited by the Association of Theological Schools or an equivalent course of study as defined by the board by promulgation of administrative regulations;

(5) Have completed each of the following:

- *(a) At least one thousand three hundred seventy-five (1,375) hours in the practice of supervised pastoral counseling acceptable to the board, subsequent to being granted a master's degree; and*
- *(b) A minimum of two hundred fifty (250) hours of clinical supervision acceptable to the board;*

(6) Be an ordained minister or the denominational equivalent, as determined by the applicant's denomination or faith

group, and have been endorsed by that denomination or faith group to function as a fee-based pastoral counselor;

(7) Hold an advanced degree or its equivalent beyond the Master's of Divinity degree with special concentration in the theory and practice of pastoral counseling and which requires at least one (1) year of academic work beyond the first professional degree; and

(8) If the applicant has not received certification before July 1, 1999, pass a written examination approved by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Certification issued under Section 4 of this Act shall be renewed every three (3) years upon:

(a) Payment of a renewal fee established by the board and promulgated by administrative regulation in accordance with KRS Chapter 13A, but not to exceed three hundred dollars ($300); and

(b) Documentation of twenty (20) hours of continuing education completed since the date of last renewal or original issue, whichever is later.

(2) Any certificate not renewed within three (3) months of its renewal date shall expire. The board may reinstate the certificate upon payment of the renewal fee and meeting the continuing education requirement set forth in subparagraph (b) of subsection (1) of this section within one (1) year after the renewal date.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 12 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, marriage and family therapists, art therapists, or students within accredited training programs of these professions. Nothing in Sections 1 to 12 of this Act shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) No person shall use the title "certified fee-based pastoral counselor" or hold himself or herself out as a certified fee-based pastoral counselor, unless certified by the board.

(3) Nothing in Sections 1 to 12 of this Act shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in Sections 1 to 12 of this Act shall be construed as regulating or limiting the ministry or services of a minister, including pastoral care and counseling, otherwise authorized by a church, denomination, or faith group to perform the ordinary duties or functions of the clergy.

(5) Nothing in Sections 1 to 12 of this Act shall be construed to apply to the activities and services of a student or trainee in pastoral counseling who is pursuing a program of studies in pastoral counseling at an accredited institution of higher learning if the activities are performed under supervision and constitute a part of the supervised program of study, and if the person is designated a pastoral counseling intern or student in training.

(6) The provisions of Sections 1 to 12 of this Act shall not apply to Christian Science practitioners.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

If the board finds any applicant or certificate holder whom it regulates under Sections 1 to 12 of this Act has violated the provisions of Sections 1 to 12 of this Act, or any administrative regulation promulgated under the authority granted to the board, the board may issue an order imposing one (1) or more of the following penalties:

(1) Denial of an application for certification, either temporarily or permanently;

(2) Revocation of a certificate or an application for certification, either temporarily or permanently;

(3) Imposition of an administrative fine not to exceed one thousand dollars ($1,000);

(4) Imposition of a requirement for supervision of the applicant or certificate holder;

(5) Restriction of the certificate holder's ability to supervise others; and

(6) Issuance of a reprimand.

SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging violation of any provision of Sections 1 to 12 of this Act. The board shall cause the complaint to be investigated.

(1) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before refusing to renew, revoking, reprimanding, imposing probation or an administrative fine, or any combination of actions regarding any certificate holder.

(2) After denying an application for certification under Sections 1 to 12 of this Act, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(3) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(4) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person whose certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board by administrative regulation under KRS Chapter 13A.

SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Members of the board and its agents shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed reasonably and in good faith by the board member, agent, or employee.

SECTION 12. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Board of Certification of Fee-Based Pastoral Counselors fund is hereby created in the State Treasury. All funds received by the board under the provisions of Sections 1 to 12 of this Act shall be deposited with the State Treasurer for credit to the board fund. The fund shall be invested as all other state funds are invested, and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not lapse to the general fund. The money in the board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of Sections 1 to 12 of this Act.

Section 13. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy pursuant to KRS 309.130 to 309.1399;

(D) A certified marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team pursuant to KRS 42.660 to 42.680;[~~ and~~]

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney pursuant to KRS 15.760 or a county attorney pursuant to KRS 69.350*; and*

(H) A certified fee-based pastoral counselor as defined in Section 1 of this Act who is engaged to conduct fee-based pastoral counseling pursuant to Sections 1 to 12 of this Act.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 14. The original four (4) fee-based pastoral counselor members of the board created in Section 2 of this Act shall be appointed upon the effective date of this Act by the Governor from a list of eight (8) nominees submitted by the board of directors of the Kentucky Association of Pastoral Counselors. Each of these four initial appointees shall possess the qualifications for certification as a fee-based pastoral counselor and shall be deemed certified under the provisions of Sections 1 to 11 of this Act immediately upon being appointed to the board.

(a) The initial appointments shall be for the following terms:

1. One (1) member and the citizen-at-large member to terms of four (4) years;

2. Two (2) members to terms of three (3) years; and

3. One (1) member to a term of two (2) years.

(b) Thereafter, each member of the board shall serve for a term of four (4) years.

Representative Palumbo moved that the House concur in Senate Committee Substitute to **HB 608**. Agreed.

Representative Palumbo moved that **HB 608**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 52, Nays 40 (See March 31, 1998 roll call on **HB 608** - Appendix.) **HB 608**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 608**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 675, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 675** is as follows:

On page 8, after line 15 but before line 16 by inserting the following:

"Section 3. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising ***poultry*** ~~[chickens]~~ or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, ~~[and]~~ liquefied petroleum gas***, and natural gas*** used ***exclusively and directly*** to ~~[operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection]~~:

- (a) ***Operate farm machinery as defined in subsection (11) of this section*** ~~["Gasoline" is defined as in KRS 138.210(4)]~~;
- (b) ***Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section*** ~~["Special fuels" is defined as in KRS 138.560(3)]~~;
- (c) ***Operate on-farm poultry or livestock facilities defined in subsection (15) of this section*** ~~["Liquefied petroleum gas" is defined as in KRS 234.100(1)]~~; ~~[and]~~
- (d) ***Operate-on farm ratite facilities defined in subsection (24) of this section*** ~~["Agricultural purposes" is defined as in KRS 138.343(4)]~~;
- ***(e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or***
- ***(f) Operate on-farm dairy facilities;***

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. ~~[The exemption provided in this subsection shall be effective for sales made through July 31, 2000]~~; and

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

~~[The exemption provided in this subsection shall be effective for sales made through July 31, 2000.]~~"; and

On page 8, line 16, by deleting "3" and inserting in lieu thereof "4"; and

On page 8, line 20, by deleting "4" and inserting in lieu thereof "5"; and

On page 8, after line 21, by inserting the following:

"Section 6. The amendment contained in Section 2 of this Act shall apply retroactively to sales made on or after January 1, 1997."

Representative Wilkey moved that the House concur in Senate Committee Amendment No. 1 to **HB 675**. Agreed.

Representative Wilkey moved that **HB 675**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 31, 1998 roll call on **HB 675** - Appendix.) **HB 675**, as amended by the Senate, was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 675**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 689, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 689** is as follows:

On page 39, following line 2, insert:

"Section 22. Whereas the commitment and laws regarding juveniles in detention are of primary importance to the orderly administration of the courts and to the overall safety of this Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

The Senate Committee Amendment No. 2 Title to **HB 689** is as follows:

Amend the title to read as follows: "AN ACT relating to juvenile justice and declaring an emergency."

Representative Lovell moved that the House concur in Senate Committee Amendment No. 1 to **HB 689**. Agreed.

Representative Lovell moved that **HB 689**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 689** - Appendix.) **HB 689**, as amended by the Senate, was passed. Representative Lovell moved that the House Concur in Senate Committee Amendment No. 2 Title to **HB 689**. Agreed; and the title was agreed to. Representative Lovell moved that the vote by which **HB 689**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 703, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 703** is as follows:

AN ACT relating to regulation of athlete agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Agent contract" means any contract or agreement pursuant to which an athlete authorizes or empowers an athlete agent to negotiate or solicit on behalf of the athlete with one (1) or more professional sports teams for the employment of the athlete by one (1) or more professional sports teams, or to negotiate or solicit on behalf of the athlete for the employment of the athlete as a professional athlete;

(2) "Athlete" means a student athlete or any person who is employed or seeks to be employed under a professional sports services contract with a professional sports team or as a professional athlete;

(3) "Athlete agent" means:

(a) Any person who, as part of a business enterprise or as an independent contractor, directly or indirectly recruits or solicits any athlete to enter into any agent contract or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete;

(b) Any member of the state bar of Kentucky or the bar of any other jurisdiction when advising athlete clients and when attempting to negotiate a professional sports services contract for that client; or

(c) Other than for registration purposes, any agent, subagent, employee, or runner of an athlete agent who receives compensation directly or indirectly to recruit any athlete to enter into any contract or negotiates any contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete.

Athlete agent does not include an employee or other representative of a professional sports team;

(4) "Division" means the Division of Occupations and Professions;

(5) "Player association" or "buyer organization" means any association or organization that represents professional athletes in collective bargaining with management of professional sports teams;

(6) "Professional sports services contract" means a contract or agreement, written or oral, pursuant to which an athlete is employed or agrees to render services as a player on a professional sports team or as a professional athlete; and

(7) "Student athlete" means any one of the following:

(a) A student who resides in Kentucky and has informed, in writing, a college or university of the student's intent to participate in that school's intercollegiate athletics program and is eligible to do so;

(b) A student who does not reside in Kentucky, but has informed, in writing, a college or university in Kentucky of the student's intent to participate in that school's intercollegiate athletics, or who does participate in that school's intercollegiate athletics program and is eligible to do so; or

(c) A student who is enrolled and participates in a sport at a secondary school, college, or university in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Division of Occupations and Professions shall provide administrative services and logistical support as may be necessary to carry out the provisions of Sections 1 to 9 of this Act. The cost of these services shall be paid from moneys deposited in the revolving fund established in subsection (2) of this section.

(2) All registration fees, other moneys received by the division under the provisions of Sections 1 to 9 of this Act, and accrued interest shall be deposited in the State Treasury to the credit of a revolving fund. The revolving fund shall be used only for valid expenditures incurred by the division in the registration and regulation of athlete agents. No part of this revolving fund shall revert to the general fund of the Commonwealth.

(3) The division shall publish annually a directory of all athlete agents registered in the Commonwealth of Kentucky.

(4) The division may promulgate administrative regulations as may be necessary to carry out the provisions of Sections 1 to 9 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in business as an athlete agent or represent himself or herself as an athlete agent unless he or she is registered with the Division of Occupations and Professions under this section.

(2) To register as an athlete agent, a person shall:

(a) Complete and submit to the division an application on forms provided by the division;

(b) Pay a registration fee and an annual renewal fee to be established by the division but not to exceed three hundred dollars ($300);

(c) Submit evidence to the division that one (1) of the following is in full force and effect:

1. A surety bond payable to the State Treasurer in the sum of one hundred thousand dollars ($100,000); or

2. Malpractice insurance in effect with a minimum of one hundred thousand dollars ($100,000) coverage per incident; or

3. Cash, a certificate of deposit, bearer bonds, other negotiable instruments, or an assigned savings account in the amount of one hundred thousand dollars ($100,000) deposited with or assigned to the commission; and

4. Affirm in the application that he or she will comply with the provisions of Sections 1 to 9 of this Act and all administrative regulations duly promulgated thereunder.

(3) A person shall be denied registration as an athlete agent if he or she:

(a) Fails to comply with subsection (2) of this section;

(b) Has been convicted within the last ten (10) years of any felony or any misdemeanor that would render the applicant unfit to be an athlete agent; or

(c) Has had a license, certificate, or registration denied or revoked by any other state for reasons that would constitute grounds for denial or revocation of registration in Kentucky.

(4) A registered athlete agent shall establish complete financial and business records and maintain them for a period of at least four (4) years. All financial and business records shall be made available to division staff upon request and at reasonable hours.

(5) A registered athlete agent shall submit to the division annual contact reports on his or her activities within the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No athlete agent shall engage in the following acts:

(1) Making false or misleading statements of a material nature in his or her application for registration.

(2) Misappropriating funds, or engaging in other specific acts such as embezzlement, theft, or fraud, which would render him or her unfit to serve in a fiduciary capacity.

(3) Engaging in other conduct that significantly impacts adversely on his or her credibility, integrity, or competence to serve in a fiduciary capacity, including failure to disclose to a student athlete:

(a) Any financial interest in any entity that is directly involved in the same sport as a student athlete with whom he or she has entered into a contractual relationship; or

(b) Any financial interest that the athlete agent has in any entity in which he or she has advised a student athlete to invest.

(4) Engaging in conduct which violates or causes a student athlete to violate any rule or regulation promulgated by an intercollegiate sports governing body.

(5) Failure to include the agent's name in any advertising relating to the business of an athlete agent. Advertising shall not include clothing or novelty items.

(6) Publishing or causing to be published false or misleading information or advertisements, or giving any false information or making false promises to a student athlete concerning employment or financial services.

(7) Offering anything of value to a student athlete or to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete. Negotiation regarding the agent's fee shall not, however, be considered an inducement.

(8) Accepting as a client a student athlete referred by, or in exchange for, any consideration made to an employee of, or a coach for, a college or university.

(9) Committing mismanagement or misconduct as an agent which causes financial harm to a student athlete or college or university.

(10) Sending a student athlete written materials without simultaneously sending an identical copy of the written materials to the athletics director, or the director's designee, of the college or university in which the student athlete is enrolled or to which the student athlete has provided written intent to participate in intercollegiate athletics.

(11) Contacting a student athlete without having given prior notice to the college or university in which the student athlete is enrolled or to which the student athlete has provided a written intent to participate in intercollegiate

athletics.

(12) Engaging in conduct which results in an athlete losing eligibility to participate in intercollegiate athletics as a member of a sports team of an institution of higher education.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, all contracts to be utilized by athlete agents shall contain in prominent type the following: "This athlete agent is registered with the Kentucky Division of Occupations and Professions. Registration does not imply approval by the division of the terms and conditions of this contract or the competence of the athlete agent."

(2) An athlete agent who negotiates or enters into an oral or written agent contract with a student athlete or provides any monetary or in-kind benefits to a student athlete who is subject to the rules and regulations of an intercollegiate sports governing body shall notify the athletic director or the president of the college or university in which the student athlete is enrolled that the athlete agent negotiated or has entered into a contract or has provided monetary or in-kind benefits to a student athlete. Written notification of the contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or of accepting any benefits from an athlete agent shall be given before the student athlete practices for, or participates in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into the contract or providing the benefits, whichever occurs first.

(3) An agent contract between a student athlete and an athlete agent shall have a notice printed near the space for the student athlete's signature which shall contain the following statement in ten (10) point bold face type:

"Warning: If you as a student athlete sign this contract, you may lose your eligibility to compete in intercollegiate athletics. Under Kentucky law, you are required to notify the athletic director or president or your college or university in writing before practicing for, or participating in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into this contract, whichever occurs first. Failure to provide this notice is a criminal offense. Do not sign this contract until you have read it and filled in any blank spaces. You may cancel this contract by notifying the athlete agent in writing of your desire to cancel not later than the fifteenth day after the date you sign this contract. However, even if you cancel this contract, the intercollegiate athletic association or conference to which your college or university belongs may not restore your eligibility to participate in intercollegiate athletics."

(4) An agent contract which does not meet the requirements of subsections (1) and (3) of this section is void and unenforceable.

(5) Postdating of agent contracts is prohibited, and a postdated contract is void and unenforceable. Subsections (1) and (3) of this section are applicable to postdated contracts even though these contracts may be void and unenforceable. Execution of a postdated contract is a violation of this section, and an athlete agent committing the violation is subject to the penalty provisions of Sections 8 and 9 of this Act. A student athlete committing the violation is subject to the penalty provisions of subsection (4) of Section 9 of this Act.

(6) Within fifteen (15) days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of the contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled, whichever occurs later, the student athlete has the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his or her intent to rescind. The rescission is effective upon repayment by the student athlete to the athlete agent of any monetary amounts paid to the student athlete by the athlete agent, exclusive of travel, lodging, meals, and entertainment, or reimbursement for these items, furnished by the athlete agent to the student athlete. The student athlete may not effect a waiver of his or her right to rescind, and an attempt to do so is prohibited and unenforceable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete who is subject to the rules and regulations of an intercollegiate sports governing body, who has not competed in his or her last intercollegiate contest, including postseason games, for the applicable sport, and who negotiates for or enters into an oral or written agent contract with an athlete agent or a contract under which a student athlete is employed as a professional athlete, or accepts any monetary or in-kind benefit from an athlete agent, shall notify the athletic director or the president of the college or university in which he or she is enrolled that he or she has commenced negotiations or entered into a contract or has accepted these benefits. Written notification of negotiation or entering into a contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or accepting any benefits from an athlete agent shall be given before practicing for or participating in an athletic event on behalf of a college or university within seventy-two (72) hours after commencing negotiations or entering into the contract, whichever occurs first.

(2) In addition to any other penalty of law provided, a student athlete who fails to provide this notification shall perform

a minimum of seventy (70) hours of community service.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete and athlete agent who negotiate or enter into an agent contract or accept any monetary or in-kind benefits and fail to provide the notification required by this section are liable for actual damages to the college or university in which the student athlete is enrolled that results from the student athlete's subsequent ineligibility.

(2) For purposes of subsection (1) of this section, a college or university suffers actual damages if, because of activities of the person, the college or university is penalized or is disqualified or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics, by an intercollegiate athletic conference, or by self-imposition and, because of that penalty, disqualification, or suspension, one of the following occurs to the institution:

(a) Loses revenue from media coverage of a sports contest;

(b) Loses the right to grant an athletic scholarship;

(c) Loses the right to recruit an athlete;

(d) Is prohibited from participating in postseason athletic competition;

(e) Forfeits an athletic contest; or

(f) Suffers an adverse financial impact.

(3) An institution that prevails in a suit brought under this section may recover the following:

(a) Actual damages;

(b) Punitive damages;

(c) Court costs; and

(d) Reasonable attorney's fees.

(4) In actions seeking relief under this section, the claim shall not have been considered as having accrued until the discovery by the aggrieved college or university of the alleged violation by the student athlete or the athlete agent, after which the college or university shall have two (2) years to bring an action.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any complaint against an athlete agent shall be referred to the appropriate college or university or athletic regulatory body for review and investigation. If upon investigation an athlete agent has been found to have committed a violation of Sections 1 to 9 of this Act or any administrative regulation promulgated thereunder, the college or university or athletic regulatory agency involved may recommend to the division that the athlete agent's registration be suspended or revoked. Upon receipt of that recommendation, the division shall take action with the type of action to be commensurate with the nature and severity of the violation. Administrative action authorized in this section shall be in addition to any criminal penalties provided in Section 9 of this Act or under other provisions of law.

(2) Any suspension or revocation imposed by the division under this section may be appealed by the aggrieved party within thirty (30) days of receipt of notice, and upon appeal an administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. In an administrative hearing conducted under this subsection, the responsibility for presenting the case in support of the suspension or revocation shall be the responsibility of the college or university or athletic regulatory agency upon whose recommendation the action was taken. Upon appeal, a disciplinary action may be stayed pending final disposition of the appeal, except for denial of registration or an emergency suspension imposed under KRS 13B.125, but only if the division determines, with the advice of the affected college or university or athletic regulatory agency, that a stay does not pose a threat to the honesty and integrity of intercollegiate sports in Kentucky, or cause damage to any college or university in Kentucky.

(3) The suspension of a registration shall be for a specified period of time not to exceed two (2) years. Revocation shall not be time specific, and an athlete agent may apply for reinstatement but not within a period of three (3) years from the date of revocation. Reinstatement shall be based on the fitness of the applicant to perform in accordance with the provisions of Sections 1 to 9 of this Act and administrative regulations promulgated thereunder, and an affirmative recommendation from the college or university or athletic regulatory agency that precipitated the revocation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with Sections 1 to 8 of this Act shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in Section 4 of this Act shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of Section 5 of this Act shall be

guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of Section 6 of this Act or subsection (5) of Section 5 of this Act shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under Section 7 of this Act shall be guilty of a Class D felony.

Section 10. KRS 518.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1)[~~"Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one (1) or more professional sports teams for the employment of the person as a professional athlete.~~

~~(2)~~] "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

[~~(3) "Contractual relationship" means an agreement between a sports agent and student athlete under which the sports agent agrees to:~~

~~(a) Obtain or attempt to obtain employment for the student athlete with a professional sports team or as a professional athlete;~~

~~(b) Provide loans, advances of money, services, or other material goods to further the student athlete's pursuit of a career in professional sports; or~~

~~(c) Represent the student athlete in any manner related to the student athlete's pursuit of a career in professional sports or as a professional athlete.~~

~~(4) "Eligibility" means the period of time during which a student athlete is enrolled as a student at an institution and is permitted to compete in intercollegiate athletic events. A student athletic shall remain eligible unless he is rendered ineligible or declares his intent in writing, to forego any remaining eligibility.~~]

(2)[~~(5)~~] "Event" means a sports contest or other public performance to which the general public is not admitted without consideration.

[~~(6) "Institution" means a public or private institution that offers educational services at or beyond the secondary level.~~

~~(7) "Professional sport services contract" means a contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sports team or as a professional athlete.~~]

(3)[~~(8)~~] "Public performance" means any form of entertainment other than a sports contest involving machines, persons, animals, or objects that is viewed by the public.

[~~(9) "Sports agent" means a person who solicits, personally or through an agent or employee, a student athlete to enter into a contractual relationship. "Sports agent" does not include an attorney acting as legal counsel for the student athlete.~~]

(4)[~~(10)~~] "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, animals, or objects that is viewed by the public.

(5)[~~(11)~~] "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, or judge, or otherwise to officiate at a sports contest.

(6)[~~(12)~~] "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant, or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant, or team.

[~~(13) "Student athlete" means a student who competes individually or as a member of a team at an institution or who is eligible and competes individually or as a member of a team in intercollegiate athletic events.~~]

Section 11. The following KRS section is repealed:

518.080 Unauthorized sports agency practices.

Representative DeWeese moved that the House concur in Senate Committee Substitute to **HB 703**. Agreed.

Representative DeWeese moved that **HB 703**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 31, 1998 roll call on **HB 703** - Appendix.) **HB 703**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 703**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 727, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 727** is as follows:

AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) ***"Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;***

(8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;

(9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(10)[~~(8)~~] "Commissioner" means the commissioner of the Department of Personnel as provided for in KRS 18A.015;

(11)[~~(9)~~] "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(12)[~~(10)~~] "Department" means the Department of Personnel provided for in KRS 18A.015, unless the context indicates otherwise;

(13)[~~(11)~~] "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

[~~(12) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18A.010 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;~~]

(14)[~~(13)~~] "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time***,*** [~~or~~] part-time***, or interim*** basis;

(15) "Full-time employee" means an employee in a full-time position;

(16)[~~(14)~~] ***"Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:***

- ***(a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and***
- ***(b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time***[~~Federally funded time-limited employee" means an employee appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employees as defined in this chapter~~];

[~~(15) "Federally funded time-limited position" means a position created for the specific purpose of providing public service employment or one (1) time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;~~]

(17)[~~(16)~~] "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010

to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;

(18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;

(19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(20) "Part-time employee" means an employee in a part-time position;

(21) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;

(22)[~~(17)~~] "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;

(23)[~~(18)~~] "Position" means an office or employment in an agency (whether part-time, full-time,[~~ permanent, temporary, seasonal, federally funded time-limited,~~] or ***interim***[~~emergency~~], occupied, or vacant) involving duties requiring the services of one (1) person;

(24)[~~(19)~~] "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(25)[~~(20)~~] "Promotional probation" means the [~~six (6) month~~] period of service***, consistent with the length of the initial probationary period,*** following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

[~~(21) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18A.010 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(7)(h);~~]

(26)[~~(22)~~] "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(27)[~~(23)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(28)[~~(24)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(29)[~~(25)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(30)[~~(26)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(31)[~~(27)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

[~~(28) "Seasonal employee" means an employee appointed to a seasonal position;~~

~~(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months' duration;~~]

(32)[~~(30)~~] "Seniority" means the total number of months of state service;

(33)[~~(31)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;

[~~(32) "Temporary employee" means an employee appointed to a temporary position;~~

~~(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;~~]

(34) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to

transfer.

Section 2. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly ***and applications accepted*** at least ***ten (10)***[~~fifteen (15)~~] days ***prior to certification of a register***[~~in advance of the date fixed for the filing of applications therefor~~], and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the commissioner for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g)[~~For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;~~

~~(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;~~

~~(i)~~] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h)[~~(j)~~] For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i)[~~(k)~~] For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility ***without written examination***; and

(j)[~~(l)~~] For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 3. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county and job classification, ***interim***[~~provisional, temporary, emergency, federally funded time-limited,~~] and probationary employees shall be laid off before [~~permanent~~] full-time or [~~permanent~~] part-time employees with status. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the commissioner have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

(a) He notifies the department in writing that he no longer desires consideration for a position on such register;

(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) He is unqualified for appointment;

(e) He is unable to perform the duties of the class;

(f) He has made a false statement of a material fact in his application;

(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(j) He cannot be located by postal authorities at the last address provided by him; or

(k) He has otherwise willfully violated the provisions of this chapter.

(7) When the department is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

Section 4. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) ***Interim***[~~Seasonal, temporary, and emergency~~] employees;

(q)[~~Federally funded time-limited employees;~~

~~(r)~~] Officers and members of the state militia;

(r)[~~(s)~~] State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s)[~~(t)~~] University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t)[~~(u)~~] Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u)[~~(v)~~] Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v)[~~(w)~~] County and Commonwealth's attorneys and their respective appointees;

(w)[~~(x)~~] Chief district engineers and the state highway engineer;

(x)[~~(y)~~]Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y)[~~(z)~~]Employees of the Kentucky Peace Corps; and

(z)[~~(aa)~~] Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 5. KRS 18A.155 is amended to read as follows:

(1) The commissioner shall prepare and submit proposed administrative regulations to the Governor for employees in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), ***(t), and*** (u),[~~ and (v)~~] of subsection (1) of KRS 18A.115. Such administrative regulations shall become effective after approval by the Governor and promulgation in accordance with KRS Chapters 12 and 13A. The administrative regulations shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the Governor, the commissioner shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. Any employee affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employees in the unclassified service, after consultation with appointing authorities and the secretary of Finance and Administration, and taking into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere; and
3. The state's financial resources.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the commissioner through the secretary of Finance and Administration. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided in subsection (1) of this section;

(e) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employee relations; and

(f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e)***, (p), (u),*** and ***(w)***~~[(q)]~~ of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 6. KRS 36.040 is amended to read as follows:

The adjutant general shall:

(1) Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;

(2) Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;

(3) Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;

(4) Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;

(5) Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms, and branches of the Kentucky Army and Air National Guard;

(6) Supervise the preparation of all returns and reports of the Department of Military Affairs;

(7) Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;

(8) Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect matters assigned to the adjutant general under the provisions of KRS Chapters 36, 37, and 38;

(9) Direct and supervise the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;

(10) Notify the Finance and Administration Cabinet of all military property of the state which after inspection is found unsuitable for use of the cabinet;

(11) Keep an account of:

(a) All expenses, including pay of officers and enlisted men, allowance to officers and organizations;

(b) Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard; and

(c) All military property of the United States.

(12) Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to such portion of the

Kentucky active militia as is called out by the Governor;

(13) Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all such records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;

(14) Organize units of the National Guard at places designated by the Governor and have the members mustered into service under regulations prescribed by the Governor;

(15) Issue all regulations, orders, and directives for the proper functioning and utilization of the Department of Military Affairs and its divisions***; and***

(16) Hire, discharge, and pay any personnel that the adjutant general deems necessary to fulfill defense contracts without regard to KRS Chapter 18A.

Section 7. In order to provide for the orderly implementation of Sections 1 to 5 of this Act:

(1) Seasonal positions of less than nine (9) months and temporary positions in effect as of July 1, 1998 shall expire upon their normal expiration date;

(2) Federally funded time limited positions in effect as of July 1, 1998 shall expire upon the conclusion of the grant in effect at that time, or the conclusion of the project, whichever occurs first; and

(3) Employees serving in part-time positions of one hundred (100) hours or more per month and employees serving in seasonal positions of nine (9) months or more as of the effective date of this Act shall be converted to full-time status.

Representative Hoffman moved that the House concur in Senate Committee Substitute to **HB 727**. Agreed.

Representative Hoffman moved that **HB 727**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 727** - Appendix.) **HB 727**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 727**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 736, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 736** is as follows:

On page 2, line 26, delete "***ten (10)***" and insert "***two (2)***" in lieu thereof; and

On page 3, line 6, delete "***members***" and insert "***member***" in lieu thereof.

Representative Stein moved that the House concur in Senate Committee Amendment No. 1 to **HB 736**. Agreed.

Representative Stein moved that **HB 736**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 31, 1998 roll call on **HB 736** - Appendix.) **HB 736**, as amended by the Senate, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 736**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 14, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HCR 14** is as follows:

A CONCURRENT RESOLUTION creating the Tobacco Program Issues Group.

WHEREAS, the federal tobacco price support program is an effective, very low cost, government program that enables Kentucky's small farm operators to remain economically stable and self-sustaining; and

WHEREAS, an informal survey conducted in 1994 revealed that over 50% of tobacco experts believe there is a "moderate" to "high" probability that the federal tobacco price support program will be abolished within 10 years; and

WHEREAS, there is now before the U. S. Senate a proposal to end the federal tobacco price support program which has been introduced, in part, as a response to the Attorneys General/Tobacco Industry Settlement, Proposed Resolution of June 20, 1997; and

WHEREAS, persuasive arguments may be made that the movement to end the program is not based upon any shortcomings of the program but rather is based partly upon a desire to disrupt the market for tobacco in the belief that the disruption will accomplish through indirect action what has not been achieved through direct action -- to persuade individuals to end their use of tobacco products; and

WHEREAS, ending the tobacco price support program for this reason unfairly penalizes small farmers because it is estimated that more than 50% will no longer be able to grow tobacco without the price support program, yet many small farmers will not have the opportunity to replace that income in many areas of the state, and most notably in eastern Kentucky, where off-farm jobs are not widely available; and

WHEREAS, ending tobacco price supports for this reason also places 38 Kentucky counties at severe economic risk, because they are particularly dependent on the growing of tobacco for economic stability due to high unemployment in those counties; and

WHEREAS, Kentucky must protect against the economic disruption that would follow from an end to the federal tobacco price support program and prepare to substitute an equally effective program to provide tobacco price stability to small farmers and the communities in which they live;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Tobacco Task Force is directed to develop a strategy for the state to enter into a tobacco price support program with other tobacco producing states. The strategy shall include but not be limited to: structuring a states' program similar to the federal program; determining the legal requirements for establishing a states' tobacco price support program; and preparing the initial steps that Kentucky may need to take to enter into a states' program.

Section 2. The task force shall hold no less than two (2) meetings to carry out the purposes of Section 1. The task force shall, at a minimum, seek testimony from the Kentucky Farm Bureau, the Community Farm Alliance, the Burley Tobacco Growers Cooperative Association, the Burley Auction Warehouse Association, the Council for Burley Tobacco, the University of Kentucky College of Agriculture, Ag Project 2000, the Governor's Office, the Department of Agriculture, and the Economic Development Cabinet.

Section 3. The task force shall report to the LRC no later than September 15, 1999. In the event that the U. S. Congress moves to end the federal tobacco price support program before the report is due, the task force shall immediately advise the Legislative Research Commission and the Governor's Office on the steps to take to best protect the interests of the state and the state's tobacco producers.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HCR 14** is as follows:

By amending the title to read as follows "A CONCURRENT RESOLUTION directing the Tobacco Task Force to study a tobacco price support program among the states."

Representative Stacy moved that the House concur in Senate Committee Substitute to **HCR 14**. Agreed.

Representative Stacy moved that **HCR 14**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HCR 14** - Appendix.) **HCR 14**, by way of Senate Committee Substitute, was passed. Representative Stacy moved that the House concur in Senate Committee Amendment No. 1 title to **HCR 14**. Agreed; and the title was agreed to.

Representative Stacy moved that the vote by which **HCR 14**, by way of Senate Committee Substitute as amended by the Senate, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 285** is as follows:

On page 3, line 17 after "***course taught***", By inserting "***in pre-licensure programs***";

On page 3, lines 23 and 24, after "***evidence.***", by deleting everything including "***Any***" through "***relicensed***";

On page 3, line 27, after "***section***", by deleting "***,***"; and

On page 4, lines 1 and 2, by deleting "***and licensed as a registered nurse shall be denied if the required evidence is not shown***".

Representative Coleman moved that the House concur in Senate Floor Amendment No. 1 to **HB 285**. Agreed.

Representative Coleman moved that **HB 285**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 73, Nays 17 (See March 31, 1998 roll call on **HB 285** - Appendix.) **HB 285**, as amended by the Senate, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 285**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

A Free Conference Committee Report was filed on **HB 226**.

HB 317, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 317** is as follows:

On page 3, after line 8, by inserting the following:

"Section 2. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the Revenue Cabinet, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance***, except for the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election***. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The Revenue Cabinet shall hold the examinations in at least one (1) place in each Supreme Court district during the month of ***November***~~[October]~~ of each year immediately preceding each year in which property valuation administrators are to be elected. The Revenue Cabinet shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given. Any person desiring to take an examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the Revenue Cabinet shall hold a second examination prior to the filing date in each Supreme Court district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the Revenue Cabinet may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the cabinet published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the Revenue Cabinet to each person passing the examination.

(5) Examination records shall be preserved by the cabinet for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the Revenue Cabinet in Frankfort, Kentucky.

Section 3. KRS 132.385 is amended to read as follows:

(1) The cabinet shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and cabinet employees. Courses may be created and taught by cabinet personnel or the cabinet may adopt specific courses offered by appropriate professional organizations.

(2) The cabinet shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and cabinet employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the cabinet may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.

(3) Any property valuation administrator awarded the certified Kentucky assessor designation shall receive a five percent (5%) salary increase effective the first day of the month following receipt of the designation. Any property valuation administrator awarded the senior Kentucky assessor designation shall receive an additional five percent (5%) salary increase effective the first day of the month following receipt of the designation. ~~[Those property valuation administrators awarded the certified Kentucky assessor designation prior to August 1, 1994, shall receive the five percent (5%) salary increase effective August 1, 1994. Those property valuation administrators awarded the senior Kentucky assessor designation prior to August 1, 1994, shall receive an additional five percent (5%) salary increase effective August 1, 1994. The salary increases provided for in this subsection shall be funded only if sufficient surplus funds are available to fund the increases.]~~".

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 317**. Agreed.

Representative Damron moved that **HB 317**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 317** - Appendix.) **HB 317**, as amended by the Senate, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 317**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 636, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 636** is as follows:

On page 2, line 20, after the first "***incinerator***" by inserting "***or to any facility for use as a fuel***" and after the second "***incinerator***" by inserting "***or other facility***".

Representative Brown moved that the House concur in Senate Floor Amendment No. 1 to **HB 636**. Agreed.

Representative Brown moved that **HB 636**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 636** - Appendix.) **HB 636**, as amended by the Senate, was passed and the title agreed to. Representative Brown moved that the vote by which **HB 636**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 684, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 684** is as follows:

On page 4, line 14 after "Any" by adding "***portion of a policy or contract issued to a***" and by deleting "***pursuant to the reinsurance policy or contract***";

On page 6, line 4 by removing the brackets and strike through from the second "or";

On page 6, line 16 before "***or***" by inserting "***except***" and by deleting "***or***";

On page 6, line 17 by deleting "***3.***";

On page 7, line 20 by placing a "[" before the word "liberally" and by placing a "]" after the word "liberally" and by striking through the word "liberally";

On page 8, line 23 after "and" by placing a "[" before ":", and by placing a "]" after ":", and by striking through ":";

On page 8, line 24 by placing a "[" before "(a)", and by striking through all of line 24;

On page 8, by striking through all of line 25;

On page 8, line 26 by placing a "]" after "(b)" and by striking through "(b)";

On page 13, line 6 by placing "[" before "domestic" and by placing "]" after "domestic" and by striking through "domestic";

On page 17, line 26 after "(2)" by inserting "***(b)***";

On page 20, line 4 after "insolvent" by adding "***insurer***" and by placing a "[" before "insurers" and by placing a "]" after "insurers" and by striking through "insurers"; and

On page 29, line 13 by deleting "***subaccount or***".

Representative Riggs moved that the House concur in Senate Floor Amendment No. 1 to **HB 684**. Agreed.

Representative Riggs moved that **HB 684**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 2 (See March 31, 1998 roll call on **HB 684** - Appendix.) **HB 684**, as amended by the Senate, was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 684**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message received on **HB 48**: The Senate has refused to recede from its Committee Substitute to **HB 48** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference: Senator Nunnelley, Chair; Senators Scorsone and Robinson.

Message received on **HB 63**: The Senate has refused to recede from its Floor Amendment No. 2 to **HB 63** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Pendleton, Chair; Senators Johnson and Robinson.

Message received on **HB 74**: The Senate has refused to recede from its Floor Amendment No. 1 to **HB 74** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Jackson, Chair; Senators Nunnelley and Borders.

Message received on **HB 320**: The Senate has refused to recede from its Committee Substitute to **HB 320** and Senate Floor Amendment No. 1 and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference: Senator Saunders, Chair; Senators Karem and Kelly.

Message received on **HB 455**: The Senate has refused to recede from its Committee Substitute and Senate Floor Amendments to **HB 455** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Scorsone, Chair; Senators Neal and Philpot. (Time: 4:00 p.m.)

The Committee on Committees appointed the following members to serve on a Conference Committee on **HB 74**: Representative Collins, Chair; Representatives Lee, Mason, Zimmerman and Treesh.

The Conference Committee on **HB 74** will meet upon Recess in the House Chamber.

The Conference Committee on the Budget will meet in the Speakers Office upon Recess.

The Committee on Committees appointed the following members to serve on a Conference Committee to **HB 455**: Representative Bowling, Chair; Representatives Lindsay, Wilkey, Lovell, Vincent, and Hoover. The Conference Committee on **HB 455** will meet in Room 304 upon Recess.

A special meeting of the Committee on Labor and Industry will meet upon recess in the Speaker's Office.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for thirty minutes. Agreed. At the appointed hour, the Speaker ProTempore L. Clark resumed the Chair and called the House to order.

A Conference Committee Report was filed on **HB 74**. A Conference Committee Report was filed on **HB 455**. A Conference Committee Report was filed on **HB 48**.

Representative Stumbo moved that the House refuse to recede from its Committee Substitute and Committee Amendment No. 1 and Committee Amendment No. 2 Title to **SB 21**. Agreed. The Committee on Committees appointed the following members to serve on a Conference Committee on **SB 21**: Representative Moberly, Chair; Representatives Lee and Napier.

Representative moved that the Conference Committee Report on **HB 455** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 455**.

Orders of the Day (Continued)

HB 704, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 704** is as follows:

On page 20, after line 23, by adding the following new section:

"SECTION 7. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) When the Department for Facilities Management solicits for procurement of leased office space under the provisions of Section 2 of this Act, a proposal for new construction shall be considered if it does not contain any provision for a lease-purchase or an option to purchase.

(2) The Department for Facilities Management shall only consider a proposal for construction of leased office space with provision for lease-purchase or option to purchase if the proposal is submitted in response to a solicitation for proposals for built-to-suit leases in accordance with KRS 56.8169.".

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 704**. Agreed.

Representative Damron moved that **HB 704**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 81, Nays 0 (See March 31, 1998 roll call on **HB 704** - Appendix.) **HB 704**, as amended by the Senate, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 704**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

The Committee on Committees appointed the following members to serve on a Conference Committee on **HB 48**:

Representative Simpson, Chair; Representatives Wayne, Kerr, Murgatroyd, and Brandstetter.

HB 629, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 629** is as follows:

On page 1, lines 3 through 10, by deleting lines 3 through 10 in their entirety and inserting in lieu thereof the following:

"*(1) As used in this section, "partial control of access" means the limited right or easement of access granted by the Transportation Cabinet under subsection (2) of this section.*

(2) The Transportation Cabinet shall establish minimum spacing requirements for partial control of access to a limited access facility, and the manner that the access is to be provided, for the owners or occupants of land or other persons who have a limited right or easement of access under KRS 177.220. Minimum spacing between access points shall be one thousand two hundred (1,200) feet in rural areas and six hundred (600) feet in urban areas.

(3) The Transportation Cabinet may change the spacing of access control points if:

(a) 1. An owner or occupant of land abutting a limited access facility requests the cabinet for the change; or

2. A local government requests the cabinet for the change; and

(b) The change in spacing of access points is supported by an engineering and traffic study approved by the state highway engineer.

(4) A change in spacing of access control points shall not exceed fifteen percent (15%) of the limit established for the specific highway segment.".

The Senate Floor Amendment No. 2 to **HB 629** is as follows:

On page 1, in subsection "***(4)***", after the word "***established***" delete "***for the specific highway segment***" and insert in lieu thereof "***in subsection (2) of this section***".

Representative Collins moved that the House concur in Senate Committee Amendment No. 1 to **HB 629**. Agreed. Representative Collins moved that the House concur in Senate Floor Amendment No. 2 to **HB 629**. Agreed.

Representative Collins moved that **HB 629**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 31, 1998 roll call on **HB 629** - Appendix.) **HB 629**, as amended by the Senate, was passed and the title agreed to. Representative Collins moved that the vote by which **HB 629**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Collins moved that the Conference Committee Report on **HB 74** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 74**.

Representative Simpson moved that the Conference Committee Report on **HB 48** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 48**.

The Committee on Committees appointed the following members to serve on a Conference Committee on **HB 63**: Representative A. Arnold, Chair; Representatives Clarke, Curd, Maricle, and Ford.

HB 670, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 670** is as follows:

On page 1, lines 20 through 25, delete the lines in their entirety; and

On page 2, lines 1 through 3, delete the lines in their entirety.

Representative Thomas moved that the House concur in Senate Floor Amendment No. 2 to **HB 670**. Agreed.

Representative Thomas moved that **HB 670**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 670** - Appendix.) **HB 670**, as amended by the Senate, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 670**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 864, with Senate Committee Substitute, Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 864** is as follows:

AN ACT relating to health and welfare, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing individual health insurance policies in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

(a) All stages of breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure to be performed on an outpatient basis.

SECTION 2. A NEW SECTION OF KRS 304.17A-100 TO 304.17A-160 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after July 15, 1996, shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No health benefit plan under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 3. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies which requires the procedure be performed on an outpatient basis.

SECTION 4. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth providing hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 5. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Health maintenance organizations issuing contracts in this Commonwealth that provide hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No health benefit plan shall deny coverage, refuse to issue or renew, cancel or otherwise terminate, restrict, or exclude any person from any health benefit plan issued or renewed on or after the effective date of this Act, on the basis of the applicant's or insured's status as a victim of domestic violence and abuse as defined in KRS 403.720.

(2) No health benefit plan shall deny a claim on the basis of the insured's status as a victim of domestic violence.

(3) Domestic violence shall not be considered to be a preexisting condition.

Section 7. KRS 216.2920 is amended to read as follows:

As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization.

(2) *"Cabinet" means the Cabinet for Human Resources.*

(3) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge.

(4) "Facility" means any hospital or other health care facility, whether operated for profit or not, required to be licensed pursuant to KRS Chapter 216B.

(5) "Health care provider" or "provider" means any facility and service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314;

(g) Other health care practitioners as determined by the Cabinet for Human Resources by administrative regulation promulgated pursuant to KRS Chapter 13A.

(6)[~~(3)~~] "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility.

(7)[~~(4)~~] "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic, procedures performed by a provider, as periodically determined by the cabinet in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the cabinet shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the cabinet.

(8)[~~(5)~~] "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes.

(9)[~~(6)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

Section 8. KRS 216.2921 is amended to read as follows:

(1) The Cabinet for Human Resources shall collect, pursuant to KRS 216.2925, analyze, and disseminate information ***in a timely manner*** on the cost, quality, and outcomes of health services provided by health facilities and health care providers in the Commonwealth. ***The cabinet shall make every effort to make health data findings that can serve as a basis to educate consumers and providers for the purpose of improving patient morbidity and mortality outcomes, available to the public, and state and local leaders in health policy, through the cost-effective and timely use of the media and the Internet and through distribution of the findings to health facilities and health care providers for further dissemination to their patients.***

(2) The secretary of the Cabinet for Human Resources shall serve as chief administrative officer for the health data collection functions of KRS 216.2920 to 216.2929.

(3) Neither the secretary nor any employee of the cabinet shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under KRS 216.2920 to 216.2929.

Section 9. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by motor vehicle insurance and workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) ***No later than thirty (30) days after the effective date of this Act,*** appoint ***and convene*** a permanent advisory committee***, which shall include a member of the Kentucky Commission on Women,*** to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published ***and disseminated to the public, state and local leaders in health policy, health facilities, and health care providers***.

(3) All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:

(a) Total premiums paid;

(b) Total cost of claims filed and paid;

(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;

(d) Total policies canceled by type and the aggregate reasons therefor;

(e) List of total health and medical services paid for, grouped by types of services and costs:

1. Total cost per health and medical service per insured group per month;

a. Cost paid by insurer;

b. Cost paid by insured; and

2. Percentage of insureds who received each service.

If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.

(4) The cabinet ***shall***[~~may~~] promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required ***under KRS 216.2920 to 216.2929***. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 10. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for Human Resources shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, which may include quarterly reporting, information regarding the charge for and quality of the procedures and health care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. ***On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources.*** The cabinet shall rely on data from readily-available reports and statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate its data-gathering activities with other data-collection activities conducted by the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and

health care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for Human Resources shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

By the year 2000, there shall be created in the Cabinet for Human Resources an Office of Women's Health for the purpose of:

(1) Serving as a repository for data and information affecting women's health and mental health;

(2) Analyzing and communicating trends in women's health issues and mental health;

(3) Recommending to the Cabinet for Human Resources and to any advisory committees created under KRS 216.2923, data elements affecting women's health and mental health that should be collected, analyzed, and reported in a timely manner under KRS 216.2920 to 216.2929;

(4) Cooperating with the Cabinet for Human Resources in receiving and disseminating through the Internet relevant aggregate data findings under KRS 216.2920 to 216.2929 which affect women; and

(5) Administering a Women's Health Resource Center to focus on targeted preventive care and comprehensive health education.

SECTION 12. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Any public assistance recipient under Title IV of the Federal Social Security Act and any federal food stamp program recipient who has been convicted of a drug felony after August 22, 1996, may remain eligible for the program benefits if the recipient has been assessed as chemically dependent and is participating in or has successfully completed a chemical dependency treatment program or is pregnant, and the recipient is otherwise eligible.

Section 13. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsections (2) and (5) of Section 7 of this Act and throughout Section 11 of this Act shall be codified as the Cabinet for Health Services.

Section 14. This Act may be cited as the Women's Health Act of 1998.

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 864** is as follows:

On page 12, Between lines 19 and 20, By inserting the following new section:

"Section 13. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a ~~[fourteen (14) member]~~ Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the ***commissioner of the Department for Social Services*** ~~[secretary]~~ of the Cabinet for Human Resources or the ***commissioner's*** ~~[secretary's]~~ designee; ***the executive director of the Governor's Office of Child Abuse and Domestic Violence Services or the executive director's designee***; the president of the ***Kentucky Association of Sexual***

Assault Programs [~~Statewide Association of Rape Crisis Centers~~] or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; ***the commissioner of the Kentucky State Police or the commissioner's designee;*** the chair of the ***Kentucky Association of Baccalaureate and Higher Degree Nursing Programs*** [~~Council on Postsecondary Education~~] or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. ***One (1) member shall be a physician with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Medical Association.*** Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

(6) Any person in this state who holds a credential as a Sexual Assault Nurse Examiner as defined in KRS 314.011(14) shall have the right to use the title "Sexual Assault Nurse Examiner" and the abbreviation "SANE". No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a Sexual Assault Nurse Examiner.";

On page 12, line 20, By renumbering "Section 13" as "Section 14";

And also on page 12, line 25, By renumbering "Section 14" as "Section 15".

The Senate Floor Amendment No. 5 to the Senate Committee Substitute to **HB 864** is as follows:

On page 9, line 8, By deleting "***shall***" and by deleting the opening and closing brackets around the word "may" and by deleting the strike-throughs therein.

The Senate Floor Amendment No. 7 to the Senate Committee Substitute to **HB 864** is as follows:

On page 1, line 9, after "***hysterectomies;***" by inserting "***and***";

On page 1, line 10, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 1, line 12, after "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 1, line 13, by deleting lines 13 through 16 in entirety;

On page 2, line 1, after "***hysterectomies;***" by inserting "***and***";

On page 2, line 2, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 2, line 4, after "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 2, line 5, by deleting lines 5 through 8 in entirety;

On page 2, line 19, after "***hysterectomies;***" by inserting "***and***";

On page 2, line 20, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 2, line 22, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 2, line 23, by deleting lines 23 through 26 in entirety;

On page 3, line 10, after "***hysterectomies;***" by inserting "***and***";

On page 3, line 11, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 3, line 13, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 3, line 14, by deleting lines 14 through 17 in entirety;

On page 4, line 1, after "***hysterectomies;***" by inserting "***and***";

On page 4, line 2, after "***older,***" by inserting the following "***as indicated by the health care provider,***"

On page 4, line 4, "***osteoporosis***" by deleting "***; and***" and inserting "***.***" in lieu thereof;

On page 4, line 5, by deleting lines 5 through 8 in entirety;

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 864** is as follows:

By amending the title to read as follows: "AN ACT relating to health and welfare."

Representative Palumbo moved that the House concur in Senate Committee Substitute to **HB 864**. Agreed.

Representative Palumbo moved that the House concur in Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 864**. Agreed. Representative Palumbo moved that the House concur in Senate Floor Amendment No. 5 to the Senate Committee Substitute to **HB 864**. Agreed. Representative Palumbo moved that the House concur in Senate Floor Amendment No. 7 to the Senate Committee Substitute to **HB 864**. Agreed.

Representative Palumbo moved that **HB 864**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 31, 1998 roll call on **HB 864** - Appendix.) **HB 864**, by way of Senate Committee Substitute as amended by the Senate, was passed. Representative Palumbo moved that the House concur in Senate Committee Amendment No. 1 Title to **HB 864**. Agreed; and the title was agreed to. Representative Palumbo moved that the vote by which **HB 864**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 121, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 121** is as follows:

On page 1, line 9 after "proof", by inserting "***to the court***"; and

On page 1, line 9 by placing an opening bracket before and striking through "of satisfaction", and by placing a closing bracket after "satisfaction"; and

On page 1, line 9, after "being" by inserting "***satisfied***"; and

On page 1, line 9, by placing an opening bracket before, striking through and placing a closing bracket after "introduced"; and

On page 1, line 9, after court, by inserting "***shall***" and by placing an opening bracket before, striking through and placing a closing bracket after "may".

Representative Lovell moved that the House concur in Senate Floor Amendment No. 2 to **HB 121**. Agreed.

Representative Lovell moved that **HB 121**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 121** - Appendix.) **HB 121**, as amended by the Senate, was passed and the title agreed to. Representative Lovell moved that the vote by which **HB 121**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 330, with Senate Committee Substitute, Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 330** is as follows:

AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

(1) Every student should have access to a safe, secure, and orderly school that is conducive to learning;

(2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior; and

(3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

(2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and in collaboration with the Department of Education and others to provide technical assistance for safe schools.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention;

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;

(c) Analyze the data collected in compliance with Section 5 of this Act;

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;

(e) Administer a school safety grant program for local districts as directed by the General Assembly;

(f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;

(g) Prepare and disseminate information regarding best practices in creating safe and effective schools;

(h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and

(i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.

(3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:

(a) The commissioner or a designee of the Department of Education;

(b) The commissioner or a designee of the Department of Juvenile Justice;

(c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner or a designee of the Department for Social Services;

(e) The secretary or a designee of the Education, Arts, and Humanities Cabinet;

(f) A juvenile court judge;

(g) A local school district board of education member;

(h) A local school administrator;

(i) A school council parent representative;

(j) A teacher;

(k) A classified school employee; and

(l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.

(2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.

(3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the office of the secretary of the Education, Arts, and Humanities Cabinet for administrative purposes.

(4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.

(5) Using a request for proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated, or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:

(a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and

(b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.

(6) The board of directors shall annually approve:

(a) A work plan for the center;

(b) A budget for the center;

(c) Operating policies as needed; and

(d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of Section 6 of this Act.

(7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.

(8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission; and

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. All incidences of violence and assault against school employees and students; incidences of possession of guns or other deadly weapons on school property or at school functions; and incidences of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions;

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

3. The number of suspensions, expulsions, and corporal punishments; and

4. Data required during the assessment process under Section 6 of this Act.

The department shall provide all data collected relating to this subsection to the

Center for School Safety according to timelines established by the center.

(3) In 1998-99, the Kentucky Department of Education shall determine the qualitative criteria and guidelines for grants to local school districts to establish appropriate alternative education programs during the 1998-99 school year in compliance with Section 7 of this Act. The department shall select the districts to receive funding, consistent with the directives in the biennial budget for 1998-99.

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each local school shall begin an assessment of school safety and student discipline during the 1998-1999 school year including a review of the following:

(a) Reports of school incidents relating to disruptive behaviors;

(b) The school's behavior and discipline codes for clarity and appropriate notice to students and parents;

(c) The school's hierarchy of responses to discipline problems and actual disciplinary outcomes;

(d) Training needs for instructional staff in classroom management, student learning styles, and other specialized training to enhance teachers' capacity to engage students and minimize disruptive behavior;

(e) The array of school services to students at risk of academic failure, dropping out, or truancy;

(f) The engagement of parents at the earliest stages of problem behavior;

(g) Training needs for students in anger reduction, conflict resolution, peer mediation, and other necessary skills;

(h) Training needs of parents;

(i) Existing school council policies relating to student discipline and student information;

(j) The school's physical environment;

(k) The school's student supervision plan;

(l) Existing components of the school improvement plan or consolidated plan that focus on school safety and at-risk students, and the effectiveness of the components; and

(m) Other data deemed relevant by the school council or school administration.

A school that does not complete an assessment process shall not be eligible for funds under the state school safety grant program in 1999-2000 and subsequent years.

(2) By May 15, 1999, each local school district shall complete a district level assessment of district level data, resources, policies and procedures, and district- wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.

(3) As a result of the district assessment and analysis of data, resources, and needs each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole including representatives from the local juvenile delinquency prevention council, if a council exists in that community. The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under Section 10 of this Act and a description of instructional placement options for threatening or violent students.

SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A state school safety grant program shall be provided by the General Assembly to assist school districts in developing alternative educational programs and innovative programs of violence prevention, conflict resolution, disruptive or assaultive behavior management, improved school security, peer mediation, and training for employees, students, parents, and others.

(2) Funds appropriated in 1998-1999 shall be used to support the Center for School Safety and for grants to local school districts to fund appropriate alternative education programs. The distribution of grants for alternative programs in 1998-1999 shall be determined by the Kentucky Department of Education as required in Section 5 of this Act. Any funds not expended during the year shall be carried over into the next fiscal year to be used for purposes described in this section.

(3) In 1999-2000 and subsequent years, the Center for School Safety with approval from the board of directors, and in collaboration with the Kentucky Department of Education, shall establish the application process, eligibility guidelines, and funding levels for grants, consistent with the directives in the biennial budget. First priority of funding shall be for alternative programs. Other priorities for funding shall include: community-based planning; intensive academic interventions; school resource officers; training for certified and classified staff, students, parents, and community members; and other violence prevention programs.

SECTION 8. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

By August 1, 2000, the Department of Juvenile Justice shall provide, based on available general fund appropriations, a day treatment program, accessible to every school district in each judicial region of the state. The day treatment programs shall combine therapeutic and academic services.

Section 9. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
   1. The Governor.
   2. Lieutenant Governor.
   3. Department of State.
      (a) Secretary of State.
      (b) Board of Elections.
      (c) Registry of Election Finance.
   4. Department of Law.
      (a) Attorney General.
   5. Department of the Treasury.
      (a) Treasurer.
   6. Department of Agriculture.
      (a) Commissioner of Agriculture.
      (b) Kentucky Council on Agriculture.
   7. Superintendent of Public Instruction.
   8. Auditor of Public Accounts.
   9. Railroad Commission.

II. Program cabinets headed by appointed officers:
   1. Justice Cabinet:
      (a) Department of State Police.
      (b) Department of Criminal Justice Training.
      (c) Department of Corrections.
      (d) Department of Juvenile Justice.
      (e) Office of the Secretary.
      (f) Offices of the Deputy Secretaries.
      (g) Office of General Counsel.
      (h) Medical Examiner Program.
      (i) Parole Board.
      (j) Kentucky State Corrections Commission.
      (k) Commission on Correction and Community Service.
   2. Education, Arts, and Humanities Cabinet:
      (a) Department of Education.
         (1) Kentucky Board of Education.
         (2) Education Professional Standards Board.
      (b) Department for Libraries and Archives.
      (c) Kentucky Arts Council.
      (d) Kentucky Educational Television.
      (e) Kentucky Historical Society.
      (f) Kentucky Teachers' Retirement System Board of Trustees.
      (g) Kentucky Center for the Arts.
      (h) Kentucky Craft Marketing Program.
      (i) Kentucky Commission on the Deaf and Hard of Hearing.
      (j) Governor's Scholars Program.
      (k) Governor's School for the Arts.
      (l) Office of Development.

(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.

(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.

(n) Workers' Compensation Funding Commission.

(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Compliance and Taxpayer Assistance.

(c) Department of Administrative Services.

(d) Office of General Counsel.

11. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of Film Promotion.

(h) Office of General Counsel.

12. Cabinet for Workforce Development:

(a) Department for Adult Education and Literacy.

(b) Department for Technical Education.

(c) Department of Vocational Rehabilitation.

(d) Department for the Blind.

(e) Department for Employment Services.

(f) State Board for Adult and Technical Education.

(g) Governor's Council on Vocational Education.

(h) The State Board for Proprietary Education.

(i) The Foundation for Adult Education.

(j) The Kentucky Job Training Coordinating Council.

(k) Office of General Counsel.

(l) Office of Communication Services.

(m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.

(o) Office for Administrative Services.

(p) Office for Policy, Budget, and Personnel..

(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Postsecondary Education.

(a) Kentucky Community Service Commission.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

7. Department of Veterans' Affairs.

8. Kentucky Commission on Military Affairs.

Section 10. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, ***and in collaboration with***

the Center for School Safety, the Department of Education shall develop***:***

(a) Statewide student discipline guidelines ***to ensure safe schools;*** and

(b) Recommendations designed to ***improve the learning environment, student achievement, and to*** reduce the dropout rate in the state's public schools.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, ***the department, in collaboration with the Center for School Safety, shall identify successful*** strategies currently being used[~~ successfully~~] in programs in Kentucky and in other states ***and*** shall ***incorporate those strategies***[~~be incorporated~~] into the statewide guidelines and the recommendations to ***improve the learning environment and to*** reduce dropouts.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code ***and school councils in the selection of discipline and classroom management techniques under Section 13 of this Act; and in the development of the district-wide safety plan***[~~. The local code shall be distributed to all students and parents in the district and shall be available for inspection~~].

(4) ***Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.***

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(c) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(d) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents shall be provided copies of the code.

(5) The Department of Education ***with assistance from the Center for School Safety*** shall[~~ first~~] provide technical assistance to those districts ***requesting assistance with dropout prevention strategies***[~~reporting the greatest number of dropouts~~]. Reporting requirements shall be established by the Department of Education; however, reports shall be prepared in a manner that will provide data on successful strategies for dropout prevention.

(6)[~~(5)~~] The Kentucky Board of Education shall establish criteria for the development of dropout prevention programs and award grants ***based upon available appropriations from the General Assembly***[~~for up to twenty (20) school districts in which:~~

~~(a) The percentage of students dropping out of school is among the highest twenty-five (25) districts in the state; and~~

~~(b) More than one hundred (100) students drop out of schools each year~~]. These grants shall be administered through contracts whereby school districts agree to provide dropout prevention services specified by the Kentucky Board of Education.[~~ In addition, the Kentucky Board of Education shall have the authority to award up to twenty (20) grants to school districts having high dropout rates but fewer than one hundred (100) dropouts per year. The Kentucky Board of Education shall develop grant funding criteria based upon available appropriations.~~]

Section 11. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one

(1) year ***for*** a student who is determined by the board to have brought a weapon to a school under ***its***[~~the~~] jurisdiction***. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction.***[~~of the local board of education, except that~~] The[~~ local~~] board[~~ of education~~] may modify the expulsion requirement for students on a case-by-case basis. A[~~ local~~] board[~~ of education~~] that has expelled a student from the student's regular school setting ***shall***[~~may~~] provide ***or assure that*** educational services ***are provided*** to the student in an ***appropriate*** alternative program or setting***, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost***. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) ***School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur.***

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5)[~~(4)~~] The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6)[~~(5)~~] (a) Suspension of exceptional children, as defined in KRS 157.200, for more than a total of ten (10) days during a school year shall constitute a change of educational placement. The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(b) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled ***unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all***. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

SECTION 12. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

When the principal has a reasonable belief that an act has occurred on school property or at a school-sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property, the principal shall immediately report the act to the appropriate local law enforcement agency. For purposes of this section, "school property" means any public school building, bus, public school campus, grounds, recreational area, or

athletic field, in the charge of the principal.

Section 13. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall

include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques ***as a part of a comprehensive school safety plan***, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning***, as well as the school safety plan and requests for funding from the state grant program for school safety under Section 6 of this Act***;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council

any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 14. KRS 610.320 is amended to read as follows:

(1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

(2) No probation officer, nor employee of a probation officer, shall, without the consent of the District Judge sitting in

juvenile session, divulge or communicate to any persons other than the court, an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the District Judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, or to another probation officer having a direct interest in the record or social history of the child.

(3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited. Otherwise, the law enforcement records shall be made available to the child, family, guardian, or legal representative of the child involved. The records shall also be made available to the court, probation officers, or representatives of the cabinet. Records, limited to the child's adjudication of delinquency, and disposition of a criminal activity covered by KRS 610.345, shall also be made available to public or private elementary and secondary school administrative***, transportation,*** and counseling personnel, and to any teacher to whose class the student has been assigned for instruction, subject to the provisions of KRS 610.340 and 610.345.

(4) Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense which would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial. However, the fact that a juvenile has been adjudicated delinquent of an offense which would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication.

(5) This section shall not relieve the probation officer or peace officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.

(6) This section shall not prohibit release of information regarding juvenile proceedings in the District Court which do not reveal the identity of the child or its parents or guardians, or which relate to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court.

Section 15. KRS 610.340 is amended to read as follows:

(1) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, and to the extent necessary at the proceeding to victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause. Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

(2) The provisions of this section shall not apply to public officers or employees engaged in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the prosecution of the case.

(3) The provisions of this section shall not apply to employees of the cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the representation of the client in the case.

(4) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative***, transportation,*** and counseling personnel, to any teacher to whose class the student has been assigned for instruction, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.

(5) No person, including school personnel, shall disclose any record or any information contained therein except as permitted

by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.

(6) No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

(7) No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.

(8) No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.

(9) As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

Section 16. KRS 610.345 is amended to read as follows:

(1) When a child is adjudicated guilty of an offense which classifies him as a youthful offender under KRS Chapter 640, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(2) When a child is adjudicated guilty of an offense which would classify him as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him as a youthful offender under KRS Chapter 640, the court in which the matter was tried shall notify ***within five (5) days of the order*** the principal of any public or private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(3) ***Notice of adjudication to the school principal referenced in subsections (1) and (2) of this section shall be released by the principal to employees of the school having responsibility for classroom instruction of the child and may be released to other school personnel as described in subsection (4) of this section, but the information shall otherwise be confidential and shall not be shared by school personnel with any other person or agency except as may otherwise be required by law. The notification in writing of the nature of the offense committed by the child and any probation requirements shall not become a part of the child's student record.***

(4) Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative***, transportation,*** and counseling personnel, and to any teacher to whose class the student has been assigned for instruction. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.

(5)[~~(4)~~] Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

Section 17. Whereas it is critical that the board of directors for the Center for School Safety be appointed by July 15, 1998, in order to select a university location for the Center for School Safety by January 1, 1999, an emergency is declared to exist, and this Act takes effect upon its passage and approval of the Governor or upon its otherwise becoming law.

The Senate Committee Amendment No. 2 to the Senate Committee Substitute to **HB 330** is as follows:

On page 20, line 22, after "***occur.***", by inserting "***Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.***".

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 330** is as follows:

On page 6, lines 20-24, by deleting all new and underlined language;

On page 8, lines 20-27, by deleting all new and underlined language and inserting in lieu thereof

"***Of the funds appropriated to support the school safety fund program in the biennial budget, twenty percent (20%) of the funds in 1998-99, and ten percent (10%) in 1999-2000, shall be used for the operation of the Center for School Safety and grants to be distributed by the Center to support exemplary programs in local school districts. The remainder of the appropriation shall be distributed to local school districts on a per pupil basis. The funds shall be used for the purpose of improving school safety and student discipline through alternative education programs and intervention services in compliance with Sections 6, 10, and 11 of this Act. School districts shall be responsible for documenting the purposes for***

which these funds were expended";

On page 9, lines 1 through 12, by deleting all new and underlined language in its entirety; and

On page 27, lines 26 and 27, after "***from the***" by deleting "***state grant program for school safety under Section 6***" and by inserting in lieu thereof "***Center for School Safety under Section 7***".

The Senate Floor Amendment No. 8 to the Senate Committee Substitute to **HB 330** is as follows:

On page 8, line 16, by deleting "***10***" and inserting "***11***" in lieu thereof; and

On page 16, between lines 24 and 25, by inserting the following:

"Section 10. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly***. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive***;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to

KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the

capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.";

Renumber subsequent sections to conform.

Representative Moberly moved that the House concur in Senate Committee Substitute to **HB 330**. Agreed. Representative Moberly moved that the House concur in Senate Committee Amendment No. 2 to the Senate Committee Substitute to **HB 330**. Agreed. Representative Moberly moved that the House concur in Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 330**. Agreed. Representative Moberly moved that the House concur in Senate Floor Amendment No. 8 to the Senate Committee Substitute to **HB 330**. Agreed.

Representative Moberly moved that **HB 330**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 31, 1998 roll call on **HB 330** - Appendix.) **HB 330**, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 330**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

The Committee on Committees has appointed the following members to serve on a Conference Committee on **HB 320**: Representative Moberly, Chair; Representatives Richards, Stumbo, Barrows, Callahan, Ford, Cave and Allen.

HB 786, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 786** is as follows:

On page 12, line 16 after "***plan***" by adding "***of***" and by deleting "***or***"; and

On page 12, line 22 after "***plan***" and before "***or***" by inserting "***of***" and by deleting "***or***".

The Senate Floor Amendment No. 2 to **HB 786** is as follows:

On page 9, line 2 after "***of***" and before "***eligible***" by inserting "***two thirds (2/3) of the participating***" and by deleting "***eligible***".;

On page 16, line 10 by deleting "***and***"

On page 16 line 19 by deleting the period and by inserting "***; and***";

On page 16, after line 19 and before line 20 by inserting the following:

"***(i) Requiring that all members of the mutual insurance holding company are granted stock subscription rights in any initial stock offering; this requirement may be waived by the commissioner upon a showing of good cause at public hearing. For purposes of this paragraph, good cause may only be found where the members of the mutual insurance holding company are given rights to participate in the appreciation of the stock offered that are comparable to stock subscription rights.***"

Representative Cave moved that the House concur in Senate Committee Amendment No. 1 to **HB 786**. Agreed. Representative Cave moved that the House concur in Senate Floor Amendment No. 2 to **HB 786**. Agreed.

Representative Cave moved that **HB 786**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 31, 1998 roll call on **HB 786** - Appendix.) **HB 786**, as amended by the Senate, was passed and the title agreed to. Representative Cave moved that the vote by which **HB 786**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 854, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 854** is as follows:

AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city***, county,*** or urban-county to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of rubbish or the excessive growth of weeds or grass.

(2) It shall be unlawful for the owner, occupant, or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) It shall be unlawful in any city, county, or urban-county for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, or urban-county.

(4) Any city, county, or urban-county may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(5) The city, county, or urban-county shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. ***If the city, county, or urban-county provides proper notice of the violation stated in subsections (1), (2), and (3) of this section to all lienholders of record and corrects the violation,*** the lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding. ***If the city, county, or urban-county does not provide proper notice of the violation stated in subsections (1), (2), and (3) of this section to all lienholders of record before correcting the violation, then the lien shall only take precedence over all other subsequent liens, except state, county, school board, and city taxes. The lien may be enforced by judicial proceeding.***

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city, county, or urban-county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7) The provisions of subsections (4), (5) and (6) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

Representative Simpson moved that the House refuse to concur in the Senate Committee Substitute to **HB 854**.

HB 65, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 65** is as follows:

On page 1, line 20, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 3, line 9, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 4, line 12, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 6, line 13, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 6, line 26, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 7, line 16, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 8, line 4, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma; and

On page 11, line 12, after "***local***" by inserting "***primary,***" and after "***regular***" by inserting a comma.

The Senate Floor Amendment No. 4 to **HB 65** is as follows:

On page 16, between lines 6 and 7, by inserting the following:

"Section 9. KRS 132.095 is amended to read as follows:

(1) [~~Effective on or after January 1, 1986,~~] personal property [~~of nonresidents of the state in their original package or fungible goods in bulk, belonging to a nonresident of the state,~~] shipped into this state and placed in a [~~public~~] warehouse ***or distribution center*** for the purpose of ***further shipment*** [~~transshipment~~] to an out-of-state [~~or within the state~~] destination ***shall*** [~~and so designated on the original bill of lading, or personal property of residents of the state in their original package and fungible goods in bulk, belonging to a resident of the state, placed in a public warehouse for the purpose of transshipment to an out-of-state destination and so designated on the original bill of lading, shall, while so in the original package, or as fungible goods in bulk, in such warehouse,~~] be subject to an annual ad valorem tax to the state equal to one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of the fair cash value of ***the*** [~~such~~] personal property. [~~No portion of a premises owned or leased by a consignor or consignee, or a subsidiary of a consignor or consignee, shall be deemed to be a public warehouse within the meaning of this section despite any licensing as such.~~]

(2) ***Any county, urban-county, charter county, city, fire district, or other taxing district may exempt from ad valorem tax or reduce the tax rate on personal property held in a distribution center pending shipment to an out-of-state destination and taxed under subsection (1) of this section*** [~~No other tax shall be assessed by the state or any county, city or other taxing district on such personal property, or against the owner with respect thereto, while such property is in the original package, or as fungible goods in bulk in such warehouse~~].

(3) Personal property held in a distribution center shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be shipped out of state within the next six (6) months."; and

On page 16, line 7, by deleting "9" and inserting in lieu thereof "10", and by inserting after "of" the words "Sections 1 to 8 of".

Representative P. Clark moved that the House concur in Senate Floor Amendment No. 1 to **HB 65**. Agreed.
Representative P. Clark moved that the House concur in Senate Floor Amendment No. 4 to **HB 65**. Agreed.

Representative P. Clark moved that **HB 65**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 31, 1998 roll call on **HB 65** - Appendix.) **HB 65**, as amended by the Senate, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 65**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 532, with Senate Committee Amendments and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 532** is as follows:

From page 20, line 13 through page 22, line 3, by deleting the existing text and substituting the following in lieu thereof:

"(a)	Cost of Living Allowance	***1998-1999*** [~~1996-1997~~]	Each Succeeding Fiscal Year
[	~~1982-1984~~	~~$809,100~~	~~$809,100 through 1997-98~~]
	1986-1988	$4,465,400	$4,465,400 through 2000-2001 and $2,331,300 in 2001-2002
	1988-1990	$5,761,700	$5,761,700 through 2002-2003 and $2,972,700 in 2003-2004
	1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
	1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
	1994-1996	$6,142,000	$6,142,000 through ***2010-2011***
[			~~2011-2012~~]
	1996-1998	***$4,459,000***	***$4,459,000 through 2010-2011***
[		~~$2,257,700~~	~~$2,257,700 in 1997-98~~ ~~and~~ ~~$5,163,600 through 2012-2013~~]
	1998-2000	***$7,395,300***	***$15,333,900 through 2012-2013***

			and ***$7,938,600 through 2013-2014***
(b)	Minimum Value Annuities	***1998-1999*** ~~[1996-1997]~~	Each Succeeding Fiscal Year
	1986-1988	$1,227,000	$1,227,000 through 2000-2001 and $1,020,400 in 2001-2002
	1988-1990	$1,718,200	$1,718,200 through 2002-2003 and $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and $1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through ***2008-2009*** ~~[2009-2010]~~
(c)	***Sick Leave Allowance***	***1998-1999***	***Each Succeeding Fiscal Year***
		$3,657,000	***$7,828,000 in 1999-2000*** ***$7,828,000 through 2012-2013*** ***and*** ***$4,171,000 through 2013-2014***".

The Senate Floor Amendment No. 2 to **HB 532** is as follows:

On page 12, line 25 after the period "***.***" by inserting the following:

"***This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.***".

The Senate Floor Amendment No. 4 to **HB 532** is as follows:

On page 11, line 2, after "***member***", by deleting "***selected as a distinguished educator***" and inserting "***under KRS 158.782***".

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 532**. Agreed. Representative Curd moved that the House concur in Senate Floor Amendment No. 2 to **HB 532**. Agreed. Representative Curd moved that the House concur in Senate Floor Amendment No. 4 to **HB 532**. Agreed.

Representative Curd moved that **HB 532**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 31, 1998 roll call on **HB 532** - Appendix.) **HB 532**, as amended by the Senate, was passed and the title agreed to. Representative Curd moved that the vote by which **HB 532**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 554, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 554** is as follows:

On page 1, line 21, after the word "***Commonwealth's***" delete the colon "***:***"; and

On page 1, line 22, by deleting line 22 in its entirety; and

On page 1, line 23, by deleting paragraph "***(b)***" and by making the initial letter on the word "***Disqualification***" a lower case "***d***"; and

On page 2, line 24, by deleting the word and colon "***Commonwealth's:***" and inserting in lieu thereof "***local public agency's***"; and

On page 2, line 25, by deleting line 25 in its entirety; and

On page 2, line 26, by deleting paragraph "***(b)***" and by making the initial letter on the word "***Disqualification***" a lower case "***d***"; and

On page 2, line 26, after the word "***future***" delete the word "***state***".

Representative Jordan moved that the House concur in Senate Floor Amendment No. 1 to **HB 554**. Agreed.

Representative Jordan moved that **HB 554**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 31, 1998 roll call on **HB 554** - Appendix.) **HB 554**, as amended by the Senate, was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 554**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 612, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 612** is as follows:

AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Historical site" means a cultural or educational site that is officially listed in the National Register of Historical Sites;

(2) "Fully controlled access highway" means a limited access highway, an interstate highway, and a parkway;

(3) "Limited supplemental guide sign" means an official highway guide sign that is erected by the Department of Highways to give directions, furnish advance notice, show mileage or exit indicators, and indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions and that conforms to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(4) "Post-interchange guide sign" means an official highway sign that may be used in conjunction with a limited supplemental guide sign and lists the name of a tourist area or attraction or an historical site and the distance from an interstate to a tourist area or attraction or an historical site. A post-interchange guide sign shall conform to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(5) "Rural area" means an area that does not have sufficient population to be designated as an urban area;

(6) "Tourist area or attraction" means a cultural, recreational, or entertainment facility or an area of natural phenomenon or scenic beauty that is suited for outdoor recreation or that receives a major portion of its income or visitors during the normal business season from motorists not residing in the immediate area of the tourist area or attraction. "Tourist area or attraction" does not include any of the following:

- *(a) Lodging facilities; or*
- *(b) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created by individuals at the tourist area or attraction or if the sale of goods is incidental to the tourist area or attraction;*

(7) "City" means an area with a population of one hundred thousand (100,000) or more designated by the United States Department of Commerce, Bureau of the Census.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) No later than February 1, 1999, the commissioner of the Department of Highways shall establish standards, procedures, and forms for the making and approval of applications for a limited supplemental guide sign by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for the approval of a limited supplemental guide sign application for an historical site or for a tourist area or attraction shall be based upon average annual attendance and distance from a fully controlled access highway interchange.

(3) At a fully controlled access highway interchange in a rural area, the standards for approval shall be the lesser of:

- *(a) Tourist areas and attractions that have an average annual attendance of ten thousand (10,000) visitors and are located within fifty (50) miles of a fully controlled access highway;*
- *(b) Tourist areas and attractions that are located within fifty (50) miles of a fully controlled access interchange and have an annual visitation equal to or greater than the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.*

(4) At a fully controlled access highway interchange in a city, the standards for approval shall be the lesser of:

- *(a) Tourist areas and attractions that have an average annual attendance of seventy-five thousand (75,000) visitors and are located within fifty (50) miles of a fully controlled access highway interchange;*
- *(b) Tourist areas and attractions that are located within fifty (50) miles of a fully controlled access highway interchange and have an annual visitation equal to the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.*

(5) Historical sites that are located in either a rural area or a city shall have an average annual attendance of five thousand (5,000) and shall be located within fifty (50) miles from a fully controlled access highway interchange.

(6) The identification of a tourist area or attraction on a specific service sign pursuant to KRS 177.0736 shall not affect its eligibility for a limited supplemental guide sign.

(7) Upon receipt of an application, the commissioner of the Department of Highways shall within thirty (30) days provide written notification to the applicant of any hearings pertaining to the application. The commissioner of the Department of Highways shall make a determination on whether to approve the erection of a limited supplemental guide sign within ninety (90) days after the receipt of an application and shall provide written notification to the applicant of his decision.

(8) Supplemental guide signs, including but not limited to limited supplemental guide signs, erected prior to July 1, 1998, shall not be removed due to the site selection criteria contained in Sections 1 to 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) An application from an historical site or from a tourist area or attraction for the erection of a limited supplemental guide sign shall be made to the commissioner of the Department of Highways. The application shall include, but not be limited to:

- ***(a) Evidence that demonstrates the average annual attendance;***
- ***(b) Evidence that the tourist area or attraction is established as a permanent business; and***
- ***(c) Evidence that the tourist area or attraction has all necessary and proper licenses, that normal business hours shall be maintained, that it is open to the traveling public, and that it provides recreational or educational opportunities.***

(2) A nonrefundable application fee of two hundred dollars ($200) shall be paid to the Department of Highways.

(3) Upon approval of the application, the applicant shall pay a fee not to exceed five hundred dollars ($500) per year for a period of ten (10) years or the total cost of the sign and its installation, amortized for a period of ten (10) years, whichever is less, to the Transportation Cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

Pursuant to the requirements of the MUTCD Section 1A-6, the commissioner of the Department of Highways shall apply to the Federal Highway Administration, by no later than February 1, 1999, for permission to experiment with a new usage of post-interchange guide signs on all fully controlled access highways in the Commonwealth of Kentucky.

Section 5. KRS 177.0734 is amended to read as follows:

As used in KRS 177.0734 and 177.0736, unless the context requires otherwise:

(1) "Fully controlled access highways" means highways, limited to interstate and state parkways, that shall give preference to through traffic, shall have access only at selected public roads or streets, shall have no highway grade crossing or intersection, and shall further conform with the Federal Highway Administration's (FHWA's) adopted standards as contained in Federal Highway Program Manual (FHPM) 6-8-3-8 and to administrative regulations promulgated pursuant to KRS Chapter 13A;

(2) "Logo signs" means signs that consist of a business identification symbol, name, brand, trademark, or combination thereof that may be attached to specific service signs, pursuant to the Manual on Uniform Traffic Control Devices (MUTCD) and administrative regulations promulgated pursuant to KRS Chapter 13A;~~[and]~~

(3) "Specific service signs" means official signs, erected on the rights-of-ways of fully controlled ***or partially controlled*** access highways~~[as defined in subsection (1) of this section,]~~ or roads as defined in KRS 177.010, that shall include, but not be limited to, the display of the words "Gas", "Food", "Lodging", ***"Attractions",*** or "Camping" or combinations thereof and shall have space for one (1) or more logo signs that may be attached to the official signs. The erection and maintenance of the official signs shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) and administrative regulations promulgated pursuant to KRS Chapter 13A***; and***~~[.]~~

(4) "Partially controlled access highway" means a highway that gives preference to through traffic, that has access only at selected public roads or streets, and that may have a limited number of highway at-grade intersections and private driveway connections.

Section 6. KRS 177.0736 is amended to read as follows:

The commissioner of the Department of Highways shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to provide for the erection of specific service signs on fully controlled access highways ***or at interchanges on partially controlled access highways***. The administrative regulations shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), and shall include, but not be limited to, criteria for the following:

(1) Distances to eligible businesses;

(2) Selection of eligible businesses;

(3) Acceptance of logo signs that conform to the MUTCD;

(4) Removing or covering logo signs during off seasons for eligible businesses operated on a seasonal basis;

(5) Defining the circumstances in which specific service signs are erected; and

(6) Determining the costs to eligible businesses for initial installation, annual maintenance, and removal of logo signs.

Representative Gray moved that the House concur in Senate Committee Substitute to **HB 612**. Agreed.

Representative Gray moved that **HB 612**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 612** - Appendix.) **HB 612**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Gray moved that the vote by which **HB 612**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 655, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 655** is as follows:

AN ACT relating to the six (6) year road plan.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.419 is amended to read as follows:

As used in KRS ***45.245, 45.246,*** 176.420, 176.430, ***and*** 176.440***:***[~~, 176.460, and 176.470,~~]

(1) "Project" means the design, right-of-way, utility, or construction phase of a highway construction project***; and***

(2) "Six (6) year road plan" means the short-term individual transportation projects that are scheduled to be constructed in each county and that are submitted each regular session to the General Assembly by the Department of Highways, including any amendments the General Assembly makes to the projects prior to the plan being enacted. The six (6) year road plan projects with phases scheduled for funding during the ensuing biennium shall be enacted in the budget memorandum and the projects with phases in the last four (4) years of the plan shall be enacted in a joint resolution and shall include, but not be limited to:

(a) The county name;

(b) The Kentucky Transportation Cabinet project identification number;

(c) The route where the project is located;

(d) The length of the project;

(e) A description of the project and the scope of improvement;

(f) The type of local, state, or federal funds to be used on the project;

(g) The stage of development for the design, right-of-way, utility, and construction phase;

(h) The fiscal year in which each phase of the project should commence;

(i) The estimated cost for each phase of the project; and

(j) The estimated cost to complete the project.

Section 2. KRS 176.420 is amended to read as follows:

(1) The Department of Highways shall undertake a continuing study of the needs of the highways under its jurisdiction for the purpose of bringing existing facilities to acceptable standards or for the replacement of existing facilities where required.

(2) The Department of Highways shall ***submit the six (6) year road plan to***[~~provide~~] the General Assembly[~~,~~] within ten (10) working days of submission of the executive budget ***by the Governor*** to ***each***[~~the~~] regular session of the General Assembly pursuant to KRS 48.100[~~, the biennial highway construction program and the additional four (4) year construction plan~~]. The ***six (6) year road plan submitted shall be divided into six (6) sections as follows:***

(a) The first section shall set forth the cabinet's revenue estimates and assumptions used in developing the six (6) year road plan.

(b) The second section shall list the projects identified in the six (6) year road plan as defined in Section 1 of this Act.

(c) The third section shall be the list of projects targeted for potential advancement, which is identified in subsection (1) of Section 3 of this Act.

(d) The fourth section shall specify statewide projects that are listed under "ZVARIOUS 99" category.

(e) The fifth section shall provide a comparison of the proposed six (6) year road plan to the six (6) year road plan enacted the previous biennium by the General Assembly. The comparison shall include a justification

statement documenting the reason any project in the previously enacted six (6) year road plan was deleted from the proposed plan.

(f) The sixth section shall list by county all active road construction projects that are not included in the plan or are not shown in the plan submitted to the General Assembly because funding has been authorized for the project or work has been initiated on the project[~~biennial highway construction program shall detail those projects that the department shall advance to construction or preconstruction during the ensuing biennium. The Transportation Cabinet shall submit a justification statement for any project changed or deleted, including completed projects in the biennial highway construction program~~].

(3) ***The department shall provide the General Assembly an electronic version of the six (6) year road plan as defined in Section 1 of this Act at the same time the department submits the printed six (6) year road plan to the General Assembly under subsection (2) of this section. The information shall be***[~~In addition to the information required to be submitted by subsection (2) of this section, the department shall provide the General Assembly with the computer tapes and file layout for the biennial highway construction program and four (4) year construction plan~~] in a form ***cooperatively developed***[~~prescribed~~] by ***the Transportation Cabinet and*** the General Assembly ***and approved by***[~~or~~] the Legislative Research Commission[~~ at the same time as the submission of the information~~].

Section 3. KRS 176.430 is amended to read as follows:

(1) ***It is the intent of the General Assembly to direct the cabinet to identify projects in the six (6) year road plan that may, in accordance with this section, be advanced from later years, to maximize the use of all funds available to the cabinet, and to plan for the historical precedent of projects being delayed due to unforeseen circumstances. To accomplish the purpose of this section, the cabinet shall submit to the General Assembly, at the same time the six (6) year road plan is submitted, a list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the expected appropriations for the biennium, which can be advanced if additional money is received or if a project in the biennium is delayed.***

(2) In addition to the list submitted by the cabinet under subsection (1) of the section, the cabinet shall develop a separate list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the actual biennial highway construction appropriation, which can be advanced if additional money is received or if a project in either year of the biennium is delayed. This list shall be reported to the Legislative Research Commission.

(3) Any project that is accelerated under subsections (1) or (2) of this section shall be reported to the Legislative Research Commission.

(4) The cabinet may change the fund source on any project in the six (6) year road plan to maximize the efficient use of federal funds[~~The recommended biennial highway construction program submitted to the General Assembly as provided by KRS 45.245 and KRS 176.420(2) to be commenced during the ensuing biennium shall not exceed the budget submitted by the Governor for highway construction~~].

(5)[~~(2)~~] The ***projects to be funded in the last four (4) years of the six (6) year plan***[~~recommended additional four (4) year construction plan submitted to the General Assembly as provided in KRS 176.420(2)~~] shall not exceed revenue estimates provided by the Transportation Cabinet.[~~ The cabinet's revenue estimates and assumptions shall be submitted with the plan.~~]

(6)[~~(3)~~] In ***developing the design, right-of-way, utility, and construction phase of***[~~determining~~] each project, the following factors shall be considered but are not exclusive:

(a) Alignment of existing roads;

(b) The width or elevation of existing roadways and shoulder surfaces;

(c) The width of rights-of-way;

(d) The cost of each phase of the project plus a separate identification of the cabinet's administrative costs for each phase;

(e) The type and volume of traffic;

(f) The condition of structures and drainage;

(g) The accident rate;

(h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic, and environmental impact of the proposed project.

(7)[~~(4)~~] The ***six (6) year road***[~~biennial construction program and the four (4) year construction~~] plan shall designate the fiscal year each phase is scheduled to commence, a cost estimate for each phase, ***and***[~~including a separate estimate of the cabinet's administrative costs for each phase,~~] a projected[~~ construction~~] date ***for each phase to begin***[~~, and construction cost estimate~~].

(8)[~~(5)~~] The Transportation Cabinet shall *monthly transmit electronic data*[~~report monthly~~] to the General Assembly through the Legislative Research Commission *on all activity relating to all projects with open activity conducted by the Transportation Cabinet during the biennium. The data for each project shall contain all cabinet activity on projects funded through the road fund including resurfacing and rural and secondary projects, and shall also include but not be limited to the following:*

(a) District number and project item number which shall remain in effect throughout the entire life of the project, subject to the following conditions:

1. A project split into more than one (1) project during its life shall maintain the same item number with a suffix;

2. Two (2) or more projects merged shall be identified by the new merged project maintaining the project item number of one (1) of the projects being merged. The total cost of the merged project shall be set forth; and

3. A project that has been merged with another project and all funds authorized for the initial project that is subsequently shifted to the new merged project shall remain in the six (6) year road plan and shall be identified with a cross reference to the superseded project and superseded project item number;

(b) The county name and county number;

(c) The route prefix, route number, and route suffix;

(d) Termini description including beginning milepoint and ending milepoint;

(e) Type of work;

(f) Length of the project in miles;

(g) Project authorization system number, date the project was authorized, the TD-10 number authorizing the project, and the amount authorized;

(h) Year the project was enacted in a six (6) year road plan, and the notation "A" if the project is active and the notation "I" if the project is inactive;

(i) The phase code "P" for the planning phase, "D" for the design phase, "R" for the right-of-way phase, "U" for the utility phase, and "C" for the construction phase;

(j) The original estimate, fund code, and fiscal year each phase is expected to begin as enacted in the six (6) year road plan;

(k) The current estimate, fund code, and fiscal year each phase is expected to begin;

(l) The status of funding for each phase;

(m) The date current information has been changed for each phase;

(n) The letting date for each phase;

(o) Total number of right-of-way parcels, deeds signed, suits filed, and right-of-way entries completed;

(p) The date right-of-way plans are to be submitted to the central office in Frankfort and the status of right-of-way plans;

(q) Total utility relocations to be completed and the actual number completed;

(r) The award date, the construction project code number, and the award amount for the construction phase;

(s) The total number of contract change orders issued for each phase, the date of the most recent change order; and the net change order amount for each phase;

(t) The name of the contractor, the contractor's vendor number in the Statewide Accounting and Reporting System (STARS), current contract amount, and the current amount earned by the contractor;

(u) The estimated date for completion of the project, current percentage of work completed based upon time, and the actual contract completion date;

(v) The department's engineer's estimate for the project; and

(w) Total expenditures by phase.

(9) The department shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on the activity on all state resurfacing projects and all rural secondary projects that shall include as much applicable information as possible as identified in subsection (8) of this section.

(10) The department shall pursue digitizing all Kentucky roads on a geographic information system as funds are made available by the General Assembly. The digitized maps shall merge map layers and text layers to produce maps that

display geographic information and textual information detailing the six (6) year road plan as enacted by the General Assembly[~~and Transportation Committee on action taken to execute the biennial highway construction program and four (4) year construction plan. The cabinet shall submit a written report as well as an electronic report identifying the following information on projects included in the biennial highway construction program and the four (4) year construction plan:~~

~~(a) Advertisements relating to the letting of projects;~~

~~(b) The top three (3) bids including the amount of the contract awarded and the contract number;~~

~~(c) Final project cost estimates;~~

~~(d) Bid rejections;~~

~~(e) All contract change orders required to be submitted pursuant to KRS 45.247(2); and~~

~~(f) All project authorizations.~~

~~(6) The secretary of transportation shall be responsible for the execution of each biennial highway construction program and four (4) year construction plan as approved by the General Assembly and shall through the monthly report required by subsection (5) of this section promptly account for and explain any deviations of funding and schedule to the Interim Joint Committee on Transportation~~].

Section 4. KRS 176.440 is amended to read as follows:

(1) ***The state highway engineer shall provide a cost estimate for any project that a member of the General Assembly desires to be considered for advancement or inclusion in the six (6) year road plan if the request is received in writing by the secretary of the Transportation Cabinet no later than November 1 of the year prior to the convening of each regular session of the General Assembly. The cost estimate under this subsection shall be provided prior to January 15 of the following year***[~~No later than July 1 of each odd-numbered year prior to the convening of each regular session of the General Assembly, the cabinet shall furnish the biennial highway construction program, and the additional four (4) year construction plan. The cabinet shall submit the information with accompanying electronic format and file layout in a form prescribed by the General Assembly. If the cabinet fails to submit the information required by this subsection on July 1, the Transportation Committee shall notify the Legislative Research Commission and the Appropriations and Revenue Committee of the cabinet's noncompliance~~].

(2) [~~When~~]The ***six (6) year road***[~~final biennial highway construction program and the additional four (4) year highway construction~~] plan[~~ are~~] presented to the General Assembly for approval and funding as provided in KRS 45.245***, the budget memorandum, Section 2 of this Act,*** and KRS 176.420(2)[~~, any project changes, additions, and deletions that the General Assembly determines are not in accordance with the factors stated in KRS 176.430(3)~~] may be amended by the General Assembly. ***An amendment by the General Assembly that results in the addition of a new project phase to the six (6) year road plan shall use project phase costs supplied by the state highway engineer.***

Section 5. KRS 45.245 is amended to read as follows:

The provision of any other law notwithstanding:

(1) The Governor shall include in the executive branch budget recommendation and in the draft budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.100, the appropriations by each source of funds for a recommended ***six (6) year road plan***[~~biennial highway construction program~~].

(2) The Governor shall submit a recommended ***six (6) year road plan to the General Assembly***[~~biennial highway construction program~~] within ten (10) working days after submission of the branch budget recommendations pursuant to KRS 48.100.

[~~(3) The recommended biennial highway construction program shall include:~~

~~(a) A complete list and summary description of each specific highway project recommended for funding during the biennium; and~~

~~(b) For each project:~~

~~1. The county and highway district;~~

~~2. The highway department item number for each project which shall remain in effect throughout the entire life of the project, subject to the following conditions:~~

~~a. A project split during its life shall maintain the same item number with a suffix; and~~

~~b. Merged projects shall be identified with a cross reference to the superseded item number;~~

~~3. The route number and total miles to be constructed;~~

~~4. A project description;~~

~~5. The fiscal year each project phase is to commence and all estimated costs of each project phase including administrative costs of the cabinet; and~~

~~6. The source of funding to be used.~~

~~(4) During each biennium the amount allotted, from all sources, for expenditure on any project in the highway construction program for that biennium, shall not exceed the appropriation to the project by more than fifteen percent (15%) as shown in the biennial highway construction program, except as provided in KRS 45.247.~~

~~(5) Appropriations from the road fund to the recommended biennial highway construction program shall be based on the revenue estimates pursuant to KRS 48.120. In addition, the cabinet shall provide a separate and specific list of projects from the four (4) year plan which may be accelerated in the event biennial projects are delayed pursuant to KRS 176.460. This list shall not be included in the biennial highway construction program and shall not exceed twenty percent (20%) of the total amount appropriated for highway construction projects for the biennium. If additional highway construction projects are proposed that exceed revenue estimates pursuant to KRS 48.120 or that require the suspension or modification of an existing statute, the projects shall be separately stated and categorized with the recommended funding source and account.~~]

Section 6. KRS 45.246 is amended to read as follows:

The draft branch budget bills and draft bills including an appropriation provision, and the biennial highway construction act or acts submitted to the General Assembly by the Governor, and the act or acts enacted by the General Assembly, shall comply with the provisions of KRS 45.245 to ***45.247***[~~45.248~~]. Expression of general exclusion including, but not limited to, "any act or statute to the contrary notwithstanding," and "the provisions of any other law notwithstanding" shall not be effective as an exemption from the provisions of KRS 45.245 to ***45.247***[~~45.248~~]. Exemptions from the provisions of KRS 45.245 to ***45.247***[~~45.248~~] shall include the specific projects exempted.

Section 7. KRS 45.247 is amended to read as follows:

[~~(1) The Transportation Cabinet shall, prior to awarding any project phase that exceeded its cost estimate by more than fifteen percent (15%), present the project overrun to the Interim Joint Committee on Transportation for review as provided by KRS 45.248. Presentation of a project overrun shall include written certification to the Interim Joint Committee on Transportation from the state highway engineer of the Transportation Cabinet, that the project overrun is necessitated by cost increases resulting from unanticipated circumstances. This certification shall provide the specific details which have caused the project overrun.~~

~~(2) After the Transportation Cabinet has awarded a contract for a project, the cabinet shall submit written notification to the Interim Joint Committee on Transportation of the amount of the contract, the contract number, and the related item number and phase of work. Upon approving a contract change order that exceeds one hundred dollars ($100), the cabinet shall submit a copy of the change order to the Interim Joint Committee on Transportation for information purposes only. If the General Assembly is in session, the cabinet shall submit the contract change order notification to the House and Senate Transportation Committees for information purposes only.~~

~~(3)~~] There is created within the road fund the highway construction contingency account. The account shall consist of moneys appropriated to the account by the General Assembly. The Transportation Cabinet may transfer money from the highway construction contingency account to a highway construction project, for expenditure thereon. These moneys may be authorized by the secretary of the Transportation Cabinet for*:*

(1) Projects of an emergency nature*;*[~~,~~]

(2) ***Promotion of***[~~To promote~~] economic or industrial development*;*[~~,~~]

(3) ***Relief of***[~~To relieve~~] a hazardous condition*;*[~~, or~~]

(4) [~~For~~]Other purposes ***that***[~~which~~] the secretary determines to be a priority*;*[~~.~~]

(5)[~~(4) Money in the highway construction contingency account may be used for the following purposes:~~

~~(a)~~] ***Provision of***[~~Providing~~] required state match for any unanticipated federal funds made available by the Federal Highway Administration to the Commonwealth as a result of other states not utilizing their total federal obligation;

(6)[~~(b)~~] The funding of any nonfederal share of a project in a previous or the current biennial highway construction programs that exceeds its cost estimate;

(7)[~~(c)~~]The nonfederal share of federal emergency highway projects, federal discretionary projects, and federal demonstration projects; and

(8)[~~(d)~~] The nonfederal share of projects due to an increase in the federal apportionment or federal obligation limits.

[~~(5) The federal share of projects identified in subsection (1) of this section shall be funded through the appropriate federal aid category.~~]

Section 8. The Transportation Cabinet shall create a new funding code to be used in the six (6) year road plan to be known as state contingency funds and the abbreviation the cabinet shall use for this funding code shall be SC. The state contingency funding code shall be in addition to all other funding codes used by the cabinet in the six (6) year road plan and shall be used to identify all projects funded with state contingency account moneys.

Section 9. The following KRS sections are repealed:

45.2451 Definition of "project" for KRS 45.245, 45.247, and 45.248.

45.248 Approval of proposed contingency account transfer by legislative committee -- Monitoring of costs of state highway construction.

176.435 Electronic information databases on construction programs.

176.460 Project to be commenced in biennium for which it is planned -- Effect of failure to commence -- Exceptions -- Reinstatement of funds for delayed project -- Limitations on application of KRS 176.420 to 176.460.

176.470 Annual report on status of highway projects.

Representative Worthington moved that the House concur in Senate Committee Substitute to **HB 655**. Agreed.

Representative Worthington moved that **HB 655**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 655** - Appendix.) **HB 655**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Worthington moved that the vote by which **HB 655**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 229** is as follows:

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 170 of the Constitution of Kentucky be amended to read as follows:

There shall be exempt from taxation public property used for public purposes; places of burial not held for private or corporate profit; real property owned and occupied by, and personal property both tangible and intangible owned by, institutions of religion; institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education, public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; household goods of a person used in his home; crops grown in the year in which the assessment is made, and in the hands of the producer; and real property maintained as the permanent residence of the owner, who is sixty-five years of age or older, or is classified as totally disabled under a program authorized or administered by an agency of the United States government or by ***any***~~[the railroad]~~ retirement system ***either within or without the Commonwealth of Kentucky***, provided the property owner received disability payments pursuant to such disability classification, has maintained such disability classification for the entirety of the particular taxation period, and has filed with the appropriate local assessor by December 31 of the taxation period, on forms provided therefor, a signed statement indicating continuing disability as provided herein made under penalty of perjury, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits. The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemptions shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.~~[All laws exempting or omitting property from taxation other than the property above mentioned shall be void.]~~ The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location. ***Notwithstanding the provisions of Sections 3, 172, and 174 of this Constitution to the contrary, the General Assembly may provide by law an exemption for all or any portion of the property tax for any class of personal property.***

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The proposed amendment shall be summarized on the ballot and presented to the voters in the following language: "Are you in favor of amending Section 170 of the Constitution of Kentucky to permit the General Assembly to exempt motor vehicles and any other class of personal property from the levy of all or any portion of the property tax and to extend the homestead property tax exemption to persons who are classified as totally disabled by any public or private retirement system?"

Representative Moberly moved that the House concur in Senate Committee Substitute to **HB 229**. Agreed.

Representative Moberly moved that **HB 229**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 31, 1998 roll call on **HB 229** - Appendix.) **HB 229**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB**

229, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 230, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 230** is as follows:

On page 1, line 3, after the word "***of***" by deleting the words "***any employee***" and inserting in lieu thereof the words "***at least thirty percent (30%) of all employees***".

Representative Nesler moved that the House concur in Senate Committee Amendment No. 1 to **HB 230**. Agreed.

Representative Nesler moved that **HB 230**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 77, Nays 10 (See March 31, 1998 roll call on **HB 230** - Appendix.) **HB 230**, as amended by the Senate, was passed and the title agreed to. Representative Nesler moved that the vote by which **HB 230**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker ProTempore L. Clark presiding.

HB 510, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 510** is as follows:

AN ACT relating to dangerous wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline, or sport fishing trotline;

(2) "Buy" includes offering to buy, acquiring, or possessing through purchase, barter, exchange, or trade;

(3) "Commercial trotline" means a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;

(4) "Commission" means the Department of Fish and Wildlife Resources Commission;

(5) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;

(6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

(7) "Device" means any article, instrument, or equipment of whatever nature or kind which may be used to take wild animals, wild birds, or fishes;

(8) "Department" means the Department of Fish and Wildlife Resources;

(9) "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;

(10) "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;

(11) "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;

(12) "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;

(13) "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;

(14) "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;

(15) "Jugging" means a means of fishing by which a single baited line is attached to any floating object;

(16) "License" means any document issued by the department authorizing its holder to perform acts authorized by the license and includes any other form of authorization in addition to or in lieu of an actual document which may be authorized by the department by administrative regulation;

(17) "Migratory shore or upland game birds" means all species of migratory game birds except waterfowl;

(18) "Minnows" means all fish under six (6) inches in length, except basses, either largemouth, smallmouth or Kentucky; rock bass or goggle-eye; trout; crappie; walleye; sauger; pike; members of the striped bass family; and muskellunge;

(19) "Navigable waters" means any waters within this state under lock and dam;

(20) "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this

state for thirty (30) days immediately prior to his application for a license;

(21) "Permit" means any document issued by the department authorizing its holder to perform acts authorized by the permit and includes tags which shall be affixed to wildlife or devices as evidence of holding a permit and includes any other form of authorization in addition to or in lieu of an actual document authorized by the department by administrative regulation;

(22) "Possess" means the act of having or taking into control;

(23) "Prescribed by the department" means established by an administrative regulation;

(24) "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;

(25) "Protected wildlife" means ***all wildlife except those species declared unprotected by administrative regulations promulgated by the department***[~~any wildlife for which an open or closed season for taking has been designated~~];

(26) "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts, and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county, or municipal agency.

(27) "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;

(28) "Raw fur" means a hide, fur, or pelt of a fur-bearing animal which has not been processed. Skinning, stretching, oiling, or coloring of the pelt of the animal shall not be considered processing;

(29) "Administrative regulation" means a written regulation promulgated, pursuant to KRS Chapter 13A, by the commissioner with the approval of the commission;

(30) "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for thirty (30) days immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full-time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

(31) "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner, or further interfere in any manner with any officer in the discharge of his duties;

(32) "Rough fish" means all species of fishes other than those species designated by administrative regulation as sport fishes;

(33) "Sell" includes offering to sell, having or possessing for sale, barter, exchange, or trade;

(34) "Setline" means a line to which is attached one (1) single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole, or other stationary object, on the bank of a stream or impoundment;

(35) "Snagging" means the taking of fish or other aquatic animals through the use of a hand-held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;

(36) "Sports fishing trotline" means a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches.

(37) "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture wildlife in any way and any lesser act designed to lure, attract, or entice for these purposes; and to place, set, aim, or use any device, animal, substance, or agency which may reasonably be expected to accomplish these acts; or to attempt to do these acts or to assist any other person in the doing of or the attempt to do these acts;

(38) "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employee or tenant unless actually residing on the property and engaged or employed as above mentioned;

(39) "Transport" means to carry, move, or ship wildlife from one place to another;

(40) "Waterfowl" means all species of wild ducks, geese, swans, mergansers, and coots; and

(41) "Wildlife" means any normally undomesticated animal, alive or dead, including without limitations any wild mammal, bird, fish, reptile, amphibian, or other terrestrial or aquatic life, whether or not possessed in controlled environment, bred, hatched, or born in captivity and including any part, product, egg, or offspring thereof, protected or unprotected by this chapter.

Section 2. KRS 150.280 is amended to read as follows:

(1) Except as provided by administrative regulation, a[~~No~~] person shall ***not*** propagate or hold protected wildlife without obtaining a permit to do so from the department[~~ within ten (10) days after the wildlife is acquired~~]. The ***department shall promulgate administrative***[~~commissioner shall make and publish~~] regulations governing all such activity ***and prescribing permit fees***.[~~ The application for a permit shall be in writing, addressed to the commissioner, signed by the applicant, and shall describe the land or waters owned or leased to be used and shall contain such other facts as may be required by the commissioner. The commissioner may issue a permit, which shall continue in force for a term fixed by the commissioner, unless sooner revoked by the commissioner for cause, upon payment of a permit fee and fees for~~

~~tagging which shall be fixed by the commissioner. A fish and game club which enters into an agreement with the department to operate such a farm, in cooperation with the department, for the purpose of carrying out the department's program may, with the approval of the commissioner, be issued a permit without the payment of any fee.~~] Any permit issued pursuant to this section may be revoked[~~ by the commissioner at any time~~] for a violation by the holder thereof of any of the laws of Kentucky or of any ***administrative*** regulation of the department.

(2) The department shall by administrative regulation identify species of wildlife potentially damaging to native ecosystems and shall prohibit the transporting or holding of these wildlife.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A county, city, urban-county, or charter county government may regulate or prohibit the holding of wildlife that have been identified by the Department of Fish and Wildlife Resources as inherently dangerous to human health and safety.

(2) The department has declared the following species of wildlife to be inherently dangerous to human health and safety and shall establish procedures for denying or issuing a transportation permit for said wildlife:

(a) African buffalo (Syncerus caffer);
(b) Hippopotamus (Hippopotamus amphibius);
(c) Hyenas (family Hyaenidae), all species except aardwolves (Proteles Cristatus);
(d) Old world badger (Meles meles);
(e) Lions, jaguars, leopards, or tigers (Genus Panthera);
(f) Clouded leopard (Neofelis nebulosa);
(g) Cheetah (Acinonyx jubatus);
(h) Elephants (family Elephantidae);
(i) Rhinoceroses (family Rhinocerotidae);
(j) Gorillas (Family Pongidae);
(k) Baboons, drills, or mandrills (Genus Papio);
(l) Gelada baboon (Theropithecus gelada);
(m) Gavials (Family Gavialidae);
(n) Crocodiles (Family Crocodylidae);
(o) Alligators or caimans (Family Alligatoridae);
(p) Sea snakes (Family Hydrophidae);
(q) Cobras or coral snakes (Family Elapidae);
(r) Adders or vipers (Family Viperae);
(s) Venomous rear-fanged species (Family Colubridae);
(t) Gila monsters or beaded lizards (Family Helodermatidae);
(u) Komodo dragon (Varanus komodoensis);
(v) Wolverine (Gulo gulo);
(w) Bears (Family Ursidae);
(x) Wolf or wolf hybrids of over twenty-five percent (25%) wolf; or
(y) Cougar or mountain lion (Felis concolor).

Representative Hoffman moved that the House concur in Senate Committee Substitute to **HB 510**. Agreed.

Representative Hoffman moved that **HB 510**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 1 (See March 31, 1998 roll call on **HB 510** - Appendix.) **HB 510**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 510**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 519** is as follows:

On page 2, lines 17 and 18 by deleting "***Kentucky Distinguished Educator***" and inserting "***highly skilled educator***" in lieu thereof;

On page 2, lines 18 and 19 by deleting "***the Kentucky Distinguished Educator and the mentor***" and inserting "***they***" in lieu thereof;

On page 2, line 27 by deleting "***for district and***" and inserting "***to be paid for by the Department of Education***" in lieu thereof;

On page 3, line 1 by deleting "***school***"and inserting "***for***" in lieu thereof;

On page 3, line 1 after "***personnel***" by inserting "***in affected schools***";

On page 5, lines 8 through 19 by deleting all new and underlined language;

On page 5, line 8 by capitalizing "the";

On page 5, line 19 by removing the opening bracket and strike-throughs from "~~[provide for a~~";

On page 5, lines 20 through 27 by removing the strike-throughs;

On page 6, lines 1 through 3 by removing the strike-throughs and the closing bracket "]" on line 3;

On page 6, lines 4 through 8 by deleting all new and underlined language;

On page 6, lines 10 and 11 by deleting all new and underlined language;

On page 6, lines 11 through 18 by deleting the brackets and strikethroughs;

On page 6, line 20 by deleting all new and underlined language;

On page 6, line 4 after "(5)" by inserting the following:

"***During the 1998-1999 and 1999-2000 school years, the Department of Education shall conduct an intensive statewide professional development program to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:***

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the dropout rate of all students; and

(c) Prepare all students for a successful transition to adult life.

(6) ";

On page 6, line 19 inserting "***(7)***" in front of "(6)" and by placing brackets around and striking through "(6)";

On page 10, line 27 by deleting "***, including personnel to provide the services,***";

On page 12, line 5 by deleting "***shall***" and inserting "***may***";

On page 12, line 6 by deleting "***under the provisions of subsections (5) and (6) of this section***";

On page 12, line 10 after the period "." by inserting the following: "***The add-on funds shall not be withheld until the district has had the benefit of intense assistance from the Department of Education, a Kentucky Special Education Mentor under the provisions of Section 3 of this Act or other assistance approved by the department for at least two (2) years.***";

On page 12, line 24 after "***programs***" by inserting "***as measured by the state assessment program***";

On page 13, line 7 after "***lapse***" by inserting "***, but shall be returned to the district when it is in compliance with all substantive requirements designed to ensure that students with disabilities receive an appropriate education under the Federal Individuals with Disabilities Education Act, as amended***";

On page 13, line 8 after "***(6)***" by deleting all new and underlined language;

On page 13, lines 9 through 13 by deleting all new and underlined language;

On page 14, line 4 by deleting "***Interview***" and inserting "***Provide for the interviewing of***" in lieu thereof.

Representative Rasche moved that the House concur in Senate Floor Amendment No. 1 to **HB 519**. Agreed.

Representative Rasche moved that **HB 519**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 31, 1998 roll call on **HB 519** - Appendix.) **HB 519**, as amended by the Senate, was passed and the title agreed to. Representative Rasche moved that the vote by which **HB 519**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 740, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 740** is as follows:

On page 1, after line 20, add the following:

Section 2. KRS 186.174 is amended to read as follows:

(1) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines, and rental motor vehicles, or any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2) may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of a twenty-five dollar ($25) fee. A person applying for a personalized license plate shall submit the initial application and twenty-five dollar ($25) fee for a personalized license plate in person to the county clerk, but may submit the annual application to renew the personalized license plate with the twenty-five ($25) fee by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be~~[issued in the same manner as regular license plates issued pursuant to this chapter and shall not be]~~ replaced annually unless the applicant ***chooses to receive a renewal registration decal***~~[changes the letter or number combinations appearing on the plate. Payments required to be made under this section shall be in the form of a certified check, a cashier's check, or a money order]~~. A county clerk shall immediately forward the application and the twenty-five dollar ($25) fee for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year.

(2) A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and twenty-five dollar ($25) fee annually to renew a personalized license plate pursuant to the provisions of subsection (1) of this section. Once an applicant obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(3) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.

(5) (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.

(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).

(7) If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.

(8) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.

Representative R. Adams moved that the House concur in Senate Floor Amendment No. 1 to **HB 740**. Agreed.

Representative R. Adams moved that **HB 740**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 82, Nays 1 (See March 31, 1998 roll call on **HB 740** - Appendix.) **HB 740**, as amended by the Senate, was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 740**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 460** is as follows:

AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:[~~The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.~~]

(1) "Business" ***means***[~~shall mean~~] any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted***;***[~~.~~]

(2) "Change order" ***means***[~~shall mean~~] a written order signed by the purchasing officer, directing the contractor to make changes ***that***[~~which~~] the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor***;***[~~.~~]

(3) "Chief purchasing officer" ***means***[~~shall mean~~] the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177***,*** and 180***;***[~~.~~]

(4) "Construction" ***means***[~~shall mean~~] the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property***;***[~~.~~]

(5) "Contract" ***means***[~~shall mean~~] all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It ***includes***[~~shall include~~] awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It[~~ also~~] includes supplemental agreements with respect to any of the foregoing***;***[~~.~~]

(6) "Contract modification" ***means***[~~shall mean~~] any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It ***includes***[~~shall include~~] bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option***;***[~~.~~]

(7) "Contractor" ***means***[~~shall mean~~] any person having a contract with a governmental body***;***[~~.~~]

(8) "Data" ***means***[~~shall mean~~] recorded information, regardless of form or characteristic***;***[~~.~~]

(9) "Designee" ***means***[~~shall mean~~] a duly authorized representative of a person holding a superior position***;***[~~.~~]

(10) "Employee" ***means***[~~shall mean~~] an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body***;***[~~.~~]

(11) "Governmental body" ***means***[~~shall mean~~] any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of[~~ the executive or legislative branch of the~~] state government***;***[~~.~~]

(12)[~~ "May" shall mean permissive.~~

~~(13)~~] "Negotiation" ***means***[~~shall mean~~] contracting by either the method set forth in KRS 45A.085, 45A.090***,*** or 45A.095***;***[~~.~~]

(13)[~~(14)~~] "Person" ***means***[~~shall mean~~] any business, individual, organization***,*** or group of individuals***;***[~~.~~]

(14)[~~(15)~~] "Procurement" ***means***[~~shall mean~~] the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It ***includes***[~~shall also include~~] all functions that pertain to the ***procurement***[~~obtaining~~] of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration***;***[~~.~~]

(15)[~~(16)~~] "Purchase request" or "purchase requisition" ***means***[~~shall mean~~] that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025***;***[~~.~~]

(16)[~~(17)~~] "Purchasing agency" ***means***[~~shall mean~~] any governmental body ***that***[~~which~~] is authorized by this code or its implementing ***administrative*** regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer***;***[~~.~~]

(17)[~~(18)~~] "Purchasing officer" ***means***[~~shall mean~~] any person authorized by a governmental body in accordance with procedures prescribed by ***administrative*** regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term ***includes***[~~shall also include~~] an authorized representative acting within the limits of authority***;***[~~.~~]

(18)[~~(19)~~] "Services" ***means***[~~shall mean~~] the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports ***that***[~~which~~] are merely incidental to the required performance of services***;***[~~.~~]

(19)[~~(20) "Shall" shall mean imperative.~~

~~(21)~~] "Supplemental agreement" ***means***[~~shall mean~~] any contract modification ***that***[~~which~~] is accomplished by the mutual action of the parties***;***[~~.~~]

(20)[~~(22)~~] "Supplies" ***means***[~~shall mean~~] all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land***; and***[~~.~~]

(21)[~~(23)~~] "Using agency" ***means***[~~shall mean~~] any governmental body of the state ***that***[~~which~~] utilizes any supplies, services, or construction purchased under this code.

Section 2. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) ***"Committee" means the Government Contract Review Committee of the Legislative Research Commission;***

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c)[~~(b)~~] "Governmental emergency" means an unforeseen event or set of circumstances ***that***[~~which~~] creates an emergency condition as ***determined by the committee by promulgation of an administrative regulation***[~~defined in KRS 45A.095(3)~~];

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations, and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Human Resources, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.060-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs; or

11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one contract;

[~~(c) "Subcommittee" means the Personal Service Contract Review Subcommittee of the Legislative Research Commission;~~] and

(f)[~~(d)~~] "Personal service contract" means an agreement whereby an individual, firm, partnership***,*** or corporation is to perform certain ***services requiring professional skill or professional judgment***[~~duties, professional or otherwise,~~] for a specified period of time ***at***[~~for~~] a price agreed upon***. It includes all price contracts for personal***

services between a governmental body or political subdivision of the commonwealth and any other entity in any amount~~[which is exempt from competitive bidding pursuant to KRS 45A.095]~~. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, ***providers of direct*** Medicaid ***health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Human Resources***~~[providers]~~, individuals performing homemaker services, and transit authorities;

3.~~[Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision;~~

~~4.]~~ Agreements between state universities ***or colleges*** and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;~~[and]~~

4.~~[5.]~~ Agreements between a state agency and rural concentrated employment programs***;***~~[.]~~

5.~~[6.]~~ Agreements between the State Fair Board and judges, officials***,*** and entertainers contracted for events promoted by the State Fair Board***; or***

6. Any other contract that the committee deems inappropriate for consideration;~~[.]~~

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract ***or memorandum of agreement*** valid.

Section 3. KRS 45A.695 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** no one shall begin work on a personal service contract ***entered into***~~[made]~~ by any contracting body,~~[except as provided in subsection (8) of this section,]~~ until ***notification***~~[after a copy]~~ of the personal service contract is filed with the ***committee***~~[Legislative Research Commission]~~. Each ***personal*** service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each~~[copy of a proposed]~~ personal service contract ***and memorandum of agreement shall be filed with the committee prior to the effective date and***~~[submitted to the Legislative Research Commission]~~ shall be accompanied by ***a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document***~~[documentation of]~~:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;~~[and]~~

(c) ***The total projected cost of the contract or agreement and source of funding;***

(d) The total projected duration of the contract;

(e) Payment information, in detail;

(f) In the case of memoranda of agreement or similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate~~[In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3)]~~.

(3) Adequate notice of the need for ***a personal service contract***~~[the services]~~ shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or ***his***~~[a]~~ designee~~[of the officer]~~ may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or ***his***~~[a]~~ designee~~[of the officer]~~, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained

concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The ***committee***[~~Legislative Research Commission~~] shall ***maintain a record or have readily accessible records of the date on which***[~~cause to be endorsed on the copies of~~] each personal service contract ***and memorandum of agreement was received***[~~submitted the time and date of the filing~~] and shall maintain ***or have access to electronic or paper files on all***[~~a file of~~] personal service contracts ***and memoranda of agreement***[~~for public inspection, with suitable indexes~~]. ***Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.***

(7) Payment on ***personal service*** contracts ***and memoranda of agreement*** submitted to the ***committee for approval***[~~subcommittee~~] shall not be made ***for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority***[~~before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary~~].

(8) In the event of a governmental emergency ***as defined under Section 2 of this Act***, work may begin prior to filing ***notification***[~~a copy~~] of the personal service contract with the ***committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and***[~~Legislative Research Commission providing that~~] the normal process will not accommodate the ***governmental*** emergency. ***Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.***

(9) If ***a governmental***[~~an~~] emergency exists ***as defined under Section 2 of this Act*** and work is authorized to begin ***on a personal service contact*** immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet ***or his designee***, setting forth in detail the nature of the emergency shall be filed with the ***committee, along with a*** copy of the personal service contract.

Section 4. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts ***in aggregate amounts of ten***[~~on which the estimated cost does not exceed one~~] thousand dollars (***$10,000)***[~~($1,000)~~] ***or less during any one fiscal year*** shall be exempt from ***routine*** review by the ***committee and***[~~subcommittee. Personal service contracts of one thousand dollars ($1,000) or less~~] shall be filed with the ***committee not more than thirty (30) days after***[~~subcommittee prior to~~] their effective date[~~ pursuant to KRS 45A.695~~] for informational purposes ***only. The committee shall examine all personal service contracts in aggregate amounts of ten thousand dollars ($10,000) or less submitted more than thirty (30) days after the effective date***. The ***committee may***[~~subcommittee shall~~] periodically examine the informational copies of personal service contracts ***in aggregate amounts*** of ***ten***[~~less than one~~] thousand dollars ***($10,000)***[~~($1,000)~~] ***or less***[~~and payment of less than one thousand dollars ($1,000) for personal services~~] and may request agency participation in discussions relative to their contracts or payments. ***The provisions of this subsection shall not apply to price contracts for personal services.***

(2) ***Memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less during in any one fiscal year shall be exempt from routine review by the committee and shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.***

(3) [~~All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. ~~]If a personal service contract of less than ***ten***[~~one~~] thousand dollars ***($10,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***ten***[~~one~~] thousand dollars ***($10,000)***[~~($1,000)~~] per ***fiscal***[~~calendar~~] year ***per contractor***, the amended contract shall be placed on the agenda for the ***committee's routine***[~~subcommittee's~~] review. ***The provisions of this subsection shall not apply to price contracts for personal services.***

(4) If a memorandum of agreement or price contract for personal services of less than fifty thousand dollars ($50,000)

is amended to the extent the amended total of the agreement or contract exceeds fifty thousand dollars ($50,000) per fiscal year per governmental body, the amended agreement or contract shall be placed on the agenda for the committee's routine review.

Section 5. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent ***committee***[~~subcommittee~~] of the Legislative Research Commission to be known as the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]. The ***committee***[~~subcommittee~~] shall be composed of seven (7) members ***that***[~~which~~] shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the ***committee***[~~subcommittee~~] from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as ***chairperson***[~~chairman~~]. Any vacancy ***that***[~~which~~] may occur in the membership of the ***committee***[~~subcommittee~~] shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The ***committee***[~~subcommittee~~] shall meet monthly at ***the***[~~such~~] time and place as the ***chairperson***[~~chairman~~] may determine. ***A quorum shall require at least four (4) members present and the vote shall be by majority.*** The members of the ***committee***[~~subcommittee~~] shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the ***committee***[~~subcommittee~~] shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts ***and memoranda of agreement*** received by the Legislative Research Commission shall be submitted to the ***committee***[~~subcommittee~~] to:

(a) Examine the stated need for the[~~contract~~] service;

(b) Examine whether the service could or should be performed by state personnel;[~~and~~]

(c) Examine the ***amount***[~~cost~~] and duration of the contract ***or agreement; and***

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the ***committee determines***[~~subcommittee believes~~] that the contract service ***or agreement***, other than an emergency contract approved by the ***secretary of the Finance and Administration Cabinet or his designee***[~~Governor~~], is not needed ***or inappropriate***, the service could ***or***[~~and~~] should be performed by state personnel, the ***amount or duration***[~~cost~~] is excessive, or the ***exchange of resources or responsibilities are inappropriate***[~~duration is excessive~~], the ***committee***[~~subcommittee~~] shall attach a written notation of the reasons for its disapproval or objection to the personal service contract ***or memorandum of agreement*** and shall return the personal service contract ***or memorandum of agreement*** to the secretary of the Finance and Administration Cabinet ***or his designee***.[~~The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission.~~] The ***committee***[~~subcommittee~~] shall act on a personal service contract ***or memorandum of agreement*** submitted to the Legislative Research Commission within forty-five (45) days of the ***date received***[~~submission of the personal service contract~~].

(6)[~~(5)~~] Upon receipt of the ***committee's***[~~subcommittee's~~] disapproval or objection to a personal service contract ***or memorandum of agreement***, the secretary of the Finance and Administration Cabinet ***or his designee*** shall determine whether ***the***[~~a~~] personal service contract ***or memorandum of agreement shall***:

(a) [~~Shall~~]Be revised to comply with the objections of the ***committee***[~~subcommittee~~];

(b) [~~Shall~~]Be ***canceled and, if applicable, payment allowed for services rendered under the contract or amendment***[~~cancelled if disapproved by the subcommittee~~]; or

(c) [~~Shall~~]Remain effective as originally approved[~~by the Finance and Administration Cabinet~~].

(7)[~~(6)~~] The secretary of the Finance and Administration Cabinet ***or his designee*** shall notify the ***committee***[~~subcommittee~~] of the action taken on personal service contracts ***and memoranda of agreement disapproved or objected to***[~~referred to the Finance and Administration Cabinet by the subcommittee~~] within ***ten (10)***[~~thirty (30)~~] days from the date the ***personal service*** contracts ***or memoranda of agreement*** were reviewed by the ***committee***[~~subcommittee~~].

(8)[~~(7)~~] ***Contracting bodies***[~~The subcommittee~~] shall ***make annual reports*** [~~report monthly~~] to the ***committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to***[~~Legislative Research Commission all actions taken on~~] personal service contracts ***and memoranda of agreement submitted*** by the secretary of the Finance and Administration Cabinet ***or his designee***[~~and the subcommittee~~].

Section 6. KRS 45A.725 is amended to read as follows:

(1) The ***Government Contract Review Committee may establish policies and procedures concerning***[~~Legislative Research Commission shall review and comment on~~] the manner and form ***of notification and***[~~in which~~] the documentation to accompany the proposed personal service contract ***or memorandum of agreement***[~~shall be presented~~].

(2) Nothing in this code shall prohibit the committee from accepting personal service contracts or memoranda of agreement through the use of electronic instrumentalities.

Section 7. KRS 45A.830 is amended to read as follows:

(1) After the procuring officer has negotiated an architectural or engineering services contract for the Finance and Administration Cabinet or an engineering or related services contract for the Transportation Cabinet, but before the contract is submitted to the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~], the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, ***that***[~~which~~] shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances ***that***[~~which~~] may constitute a violation of this chapter ***occurring***[~~which has arisen~~] in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) The procuring agency shall ***maintain the following information, readily available to the Government***[~~file with the Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]:

(a) The certificates;

(b) The selection committee's ranking of firms; and

(c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 8. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve***,*** and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage***,*** or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage***,*** or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract***,*** or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease***,*** and sublease residential housing for persons and families of lower and moderate

income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 9. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by the 1998 Regular Session of the Kentucky General Assembly, the reference to the

Cabinet for Human Resources appearing in subsection (1)(d)6. and subsection (1)(f)2. of Section 2 of this Act shall be codified as the "Cabinet for Health Services."

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 460** is as follows:

On page 4, line 20 after the word "***party,***" by inserting the following: "***privatization contract,***".

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 460** is as follows:

On page 5, line 9 after the word "***between***" by inserting the phrase "***state agencies and***"; and

on page 5, line 9 after the phrase "***state universities or colleges and***" by inserting the phrase "***agreements between state universities or colleges and***".

Representative Long moved that the House concur in the Senate Committee Substitute to **HB 460**. Agreed. Representative Long moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 460**. Agreed. Representative Long moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 460**. Agreed.

Representative Long moved that **HB 460** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 31, 1998 roll call on **HB 460** - Appendix.) **HB 460**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 460**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 779, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 779** is as follows:

On page 1, after line 11, by inserting the following:

"Section 2. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;~~[and]~~

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations."

The Senate Floor Amendment No. 2 Title to **HB 779** is as follows:

By amending the title to read as follows: "AN ACT relating to education.".

Representative Curd moved that the House concur in Senate Floor Amendment No. 1 to **HB 779**. Agreed.

Representative Curd moved that **HB 779**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 3 (See March 31, 1998 roll call on **HB 779** - Appendix.) **HB 779**, as amended by the Senate, was passed. Representative Curd moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 779**. Agreed; and the title was agreed to. Representative Curd moved that the vote by which **HB 779**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 815, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 815** is as follows:

On page 2, between lines 9 and 10, by inserting the following:

"***(c) Each board member shall serve a three (3) year term or until a successor is appointed, except that for initial appointments to the board, three (3) of the members shall be appointed to serve a one (1) year term, eight (8) of the members shall be appointed to serve a two (2) year term, and eight (8) of the members shall be appointed to serve a three (3) year term. A member may be reappointed but may not serve more than two (2) consecutive terms.***

Representative Thomas moved that the House concur in Senate Committee Amendment No. 1 to **HB 815**. Agreed.

Representative Thomas moved that **HB 815**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 1 (See March 31, 1998 roll call on **HB 815** - Appendix.) **HB 815**, as amended by the Senate, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 815**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 92, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 92** is as follows:

A JOINT RESOLUTION establishing the additional four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly.

WHEREAS, the statutes of the Commonwealth require a highway construction plan to be presented to the General Assembly that details those projects that will be presented for construction by the Department of Highways in future years; and

WHEREAS, the General Assembly recognizes the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads in the Six Year Road Plan will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring that road projects are planned and built in a conscientious manner is to adopt projects scheduled for funding during the biennium in the budget memorandum and the projects scheduled for funding in the last four (4) years of the road plan in a joint resolution; and

WHEREAS, the General Assembly in adoption of this resolution is committed to working with the Department of Highways to develop a balanced and workable six (6) year road plan;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The projects authorized by the General Assembly in this Resolution constitute the official four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly. The following projects shall be the 2001-2004 additional four (4) year highway construction plan with project phases not scheduled for completion until after Fiscal Year 2000:

COUNTY	ITEM #	ROUTE	FUND	PHASE	ESTIMATE	FY
ADAIR	08- 159.00	KY-55	STP	CONSTRUCTION	$11,925,000	2001
ADAIR	08- 5005.00	KY-6172	SP	DESIGN	$35,000	2002
ADAIR	08- 5005.00	KY-6172	SP	RIGHT OF WAY	$10,000	2003
ALLEN	03- 146.11	US-231	STP	CONSTRUCTION	$7,000,000	2001
ALLEN	03- 146.40	US-231	STP	RIGHT OF WAY	$4,000,000	2001
ALLEN	03- 146.40	US-231	STP	UTILITIES	$3,500,000	2002
ALLEN	03- 146.41	US-231	STP	CONSTRUCTION	$8,000,000	2003
ANDERSON	07- 304.01	US-127	SP	RIGHT OF WAY	$1,500,000	2001
ANDERSON	07- 304.01	US-127	SP	UTILITIES	$1,000,000	2002
ANDERSON	07- 346.00	KY-44	STP	CONSTRUCTION	$2,000,000	2001
ANDERSON	07- 2008.00	BG-9002	SP	DESIGN	$60,000	2002

ANDERSON	07- 2008.00	BG-9002	SP	CONSTRUCTION	$3,750,000	2004
BALLARD	01- 23.00	I-66	NH	DESIGN	$500,000	2002
BALLARD	01- 115.00	US-60	SP	DESIGN	$750,000	2003
BALLARD	01- 185.00	US-51	NH	CONSTRUCTION	$2,500,000	2003
BARREN	03- 185.00	KY-70	KYD	CONSTRUCTION	$7,870,000	2002
BARREN	03- 192.01	-	SP	RIGHT OF WAY	$2,000,000	2002
BARREN	03- 192.01	-	SP	UTILITIES	$2,000,000	2004
BARREN	03- 192.20	-	SP	CONSTRUCTION	$10,000,000	2001
BARREN	03- 2002.00	I-65	IM	CONSTRUCTION	$2,500,000	2002
BARREN	03- 7000.00	-	SP	RIGHT OF WAY	$1,200,000	2001
BARREN	03- 7000.00	-	SP	UTILITIES	$800,000	2002
BATH	09- 127.00	KY-36	SP	DESIGN	$400,000	2003
BATH	09- 2001.00	I-64	IM	DESIGN	$80,000	2001
BATH	09- 2001.00	I-64	IM	CONSTRUCTION	$5,000,000	2003
BATH	09- 2002.00	I-64	IM	DESIGN	$180,000	2003
BATH	09- 5002.00	I-64	SP	DESIGN	$40,000	2001
BATH	09- 5002.00	I-64	SP	CONSTRUCTION	$400,000	2002
BATH	09- 5003.00	I-64	SP	DESIGN	$60,000	2001
BATH	09- 5003.00	I-64	SP	CONSTRUCTION	$900,000	2002
BELL	11- 57.00	US-119	NH	RIGHT OF WAY	$125,000	2001
BELL	11- 57.00	US-119	NH	UTILITIES	$60,000	2001
BELL	11- 57.00	US-119	NH	CONSTRUCTION	$2,000,000	2002
BELL	11- 135.00	KY-92	SP	DESIGN	$300,000	2002
BELL	11- 214.40	US-25E	SP	CONSTRUCTION	$1,250,000	2001
BELL	11- 214.50	US-25E	SP	CONSTRUCTION	$1,250,000	2002
BELL	11- 214.51	US-25E	SP	CONSTRUCTION	$1,250,000	2003
BELL	11- 214.52	US-25E	SP	CONSTRUCTION	$1,250,000	2004
BELL	11- 217.00	KY-66	SP	DESIGN	$40,000	2001
BELL	11- 217.00	KY-66	STP	RIGHT OF WAY	$1,500,000	2003
BELL	11- 1033.00	KY-2013	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1034.00	KY-988	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1044.00	CR-1212	BRZ	CONSTRUCTION	$250,000	2001
BELL	11- 1050.00	KY-1491	BRX	RIGHT OF WAY	$52,000	2002
BELL	11- 1050.00	KY-1491	BRX	UTILITIES	$10,000	2002
BOONE	06- 12.23	I-275	IM	CONSTRUCTION	$2,000,000	2001
BOONE	06- 64.01	US-42	STP	UTILITIES	$1,550,000	2001
BOONE	06- 64.01	US-42	STP	CONSTRUCTION	$8,000,000	2002
BOONE	06- 101.00	KY-536	SAF	CONSTRUCTION	$3,600,000	2001
BOONE	06- 116.00	-	SP	CONSTRUCTION	$1,400,000	2001
BOONE	06- 146.00	-	SP	CONSTRUCTION	$500,000	2001
BOONE	06- 316.01	KY-1017	SP	RIGHT OF WAY	$1,500,000	2001
BOONE	06- 316.01	KY-1017	SP	UTILITIES	$1,000,000	2003
BOONE	06- 331.01	-	CM	CONSTRUCTION	$500,000	2001
BOONE	06- 331.02	-	CM	CONSTRUCTION	$1,700,000	2004
BOONE	06- 351.00	US-25	STP	DESIGN	$750,000	2002
BOONE	06- 351.00	US-25	STP	RIGHT OF WAY	$2,000,000	2004
BOONE	06- 1039.00	-	CM	CONSTRUCTION	$50,000	2001

BOONE	06- 1044.02	-	CM	CONSTRUCTION	$1,250,000	2001
BOONE	06- 1044.03	-	CM	CONSTRUCTION	$1,500,000	2002
BOONE	06- 1044.04	-	CM	CONSTRUCTION	$1,700,000	2003
BOONE	06- 1044.05	-	CM	CONSTRUCTION	$1,500,000	2004
BOONE	06- 2002.00	I-275	IM	CONSTRUCTION	$12,100,000	2001
BOONE	06- 2004.00	I-71	IM	CONSTRUCTION	$2,600,000	2001
BOONE	06- 5001.00	US-42	SP	CONSTRUCTION	$512,500	2001
BOURBON	07- 310.01	US-68	NH	CONSTRUCTION	$14,000,000	2001
BOURBON	07- 310.02	US-68	NH	CONSTRUCTION	$8,000,000	2001
BOURBON	07- 310.03	US-68	NH	CONSTRUCTION	$4,000,000	2002
BOYD	09- 112.00	US-23S	NH	CONSTRUCTION	$2,000,000	2004
BOYD	09- 129.00	-	STP	DESIGN	$1,000,000	2001
BOYD	09- 141.00	KY-5	SP	DESIGN	$300,000	2004
BOYD	09- 176.00	US-23	NH	UTILITIES	$100,000	2001
BOYD	09- 176.00	US-23	NH	CONSTRUCTION	$720,000	2002
BOYD	09- 212.31	-	SP	CONSTRUCTION	$5,000,000	2004
BOYD	09- 275.00	US-60	STP	CONSTRUCTION	$2,900,000	2001
BOYD	09- 5005.00	US-23	SP	DESIGN	$50,000	2002
BOYD	09- 5005.00	US-23	SP	RIGHT OF WAY	$15,000	2003
BOYD	09- 5005.00	US-23	SP	UTILITIES	$20,000	2003
BOYLE	07- 210.00	KY-2168	SP	DESIGN	$600,000	2002
BOYLE	07- 210.00	KY-2168	SP	RIGHT OF WAY	$3,600,000	2004
BOYLE	07- 211.00	US-150B	SP	RIGHT OF WAY	$800,000	2002
BOYLE	07- 211.00	US-150B	SP	UTILITIES	$300,000	2003
BRACKEN	06- 355.03	-	SP	CONSTRUCTION	$125,000	2001
BRACKEN	06- 355.04	-	SP	CONSTRUCTION	$125,000	2002
BRACKEN	06- 355.05	-	SP	CONSTRUCTION	$125,000	2003
BRACKEN	06- 355.06	-	SP	CONSTRUCTION	$125,000	2004
BREATHITT	10- 270.11	KY-15	NH	CONSTRUCTION	$4,000,000	2002
BREATHITT	10- 270.12	KY-15	NH	CONSTRUCTION	$9,000,000	2003
BREATHITT	10- 270.20	KY-15	SP	UTILITIES	$1,500,000	2001
BREATHITT	10- 285.01	KY-15	NH	RIGHT OF WAY	$7,310,000	2001
BREATHITT	10- 285.01	KY-15	NH	UTILITIES	$925,000	2003
BREATHITT	10- 286.01	KY-15	NH	RIGHT OF WAY	$10,500,000	2001
BREATHITT	10- 286.01	KY-15	NH	UTILITIES	$1,700,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	DESIGN	$100,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	RIGHT OF WAY	$40,000	2004
BRECKINRIDGE	04- 1048.00	KY-992	BRX	CONSTRUCTION	$300,000	2002
BULLITT	05- 117.00	KY-61	STP	RIGHT OF WAY	$5,000,000	2001
BULLITT	05- 117.00	KY-61	STP	UTILITIES	$2,000,000	2003
BULLITT	05- 117.00	KY-61	STP	CONSTRUCTION	$10,000,000	2004
BULLITT	05- 347.50	KY-44	STP	DESIGN	$1,000,000	2004
BULLITT	05- 2008.00	I-65	IM	CONSTRUCTION	$600,000	2002
BULLITT	05- 5004.00	KY-44	SP	DESIGN	$65,000	2001
BULLITT	05- 5004.00	KY-44	SP	RIGHT OF WAY	$75,000	2002
BULLITT	05- 5004.00	KY-44	SP	CONSTRUCTION	$500,000	2003
BUTLER	03- 5000.00	US-231	SP	CONSTRUCTION	$180,000	2002

CALDWELL	02- 2011.00	WK-9001	SP	DESIGN	$70,000	2003
CALDWELL	02- 2011.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2004
CALDWELL	02- 5005.00	WK-9001	SP	RIGHT OF WAY	$50,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	UTILITIES	$10,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	CONSTRUCTION	$1,100,000	2002
CALLOWAY	01- 181.11	US-68	SP	CONSTRUCTION	$16,000,000	2001
CALLOWAY	01- 181.14	US-68	SP	CONSTRUCTION	$16,000,000	2002
CALLOWAY	01- 181.21	KY-80	SP	UTILITIES	$1,210,000	2002
CALLOWAY	01- 181.22	KY-80	SP	UTILITIES	$3,300,000	2002
CALLOWAY	01- 181.22	KY-80	SP	CONSTRUCTION	$6,000,000	2004
CALLOWAY	01- 181.30	KY-80	SP	UTILITIES	$2,870,000	2001
CALLOWAY	01- 181.30	KY-80	SP	CONSTRUCTION	$12,000,000	2003
CALLOWAY	01- 181.31	KY-80	SP	UTILITIES	$3,300,000	2001
CALLOWAY	01- 181.31	KY-80	SP	CONSTRUCTION	$6,000,000	2003
CALLOWAY	01- 181.35	KY-80	SP	CONSTRUCTION	$14,000,000	2004
CALLOWAY	01- 314.00	US-641	SP	DESIGN	$1,800,000	2002
CALLOWAY	01- 1127.00	KY-280	BRX	CONSTRUCTION	$450,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1128.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	CONSTRUCTION	$700,000	2003
CALLOWAY	01- 1129.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1129.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1129.00	KY-1824	BRX	CONSTRUCTION	$1,000,000	2003
CAMPBELL	06- 6.00	I-471	IM	CONSTRUCTION	$3,000,000	2002
CAMPBELL	06- 46.20	US-27	SP	CONSTRUCTION	$12,000,000	2002
CAMPBELL	06- 125.00	KY-2938	SP	DESIGN	$600,000	2003
CAMPBELL	06- 352.00	KY-536	SP	DESIGN	$600,000	2001
CAMPBELL	06- 352.00	KY-536	STP	RIGHT OF WAY	$7,000,000	2003
CAMPBELL	06- 1029.00	KY-1120	BRO	UTILITIES	$500,000	2001
CAMPBELL	06- 1029.00	KY-1120	BRO	CONSTRUCTION	$2,800,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	RIGHT OF WAY	$100,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	CONSTRUCTION	$3,000,000	2003
CAMPBELL	06- 5004.00	I-275	SP	DESIGN	$180,000	2001
CAMPBELL	06- 5004.00	I-275	SP	CONSTRUCTION	$1,500,000	2002
CAMPBELL	06- 5005.00	I-275	SP	DESIGN	$210,000	2001
CAMPBELL	06- 5005.00	I-275	NH	CONSTRUCTION	$1,750,000	2002
CAMPBELL	06- 5006.00	I-471	SP	DESIGN	$100,000	2001
CAMPBELL	06- 5006.00	I-471	SP	CONSTRUCTION	$1,000,000	2002
CARLISLE	01- 183.00	US-51	STP	DESIGN	$600,000	2002
CARLISLE	01- 1119.00	US-62	BRO	RIGHT OF WAY	$150,000	2001
CARLISLE	01- 1119.00	US-62	BRO	UTILITIES	$160,000	2001
CARLISLE	01- 1119.00	US-62	BRO	CONSTRUCTION	$600,000	2003
CARROLL	06- 12.25	I-71	IM	CONSTRUCTION	$700,000	2001
CARROLL	06- 147.00	US-42	SP	CONSTRUCTION	$5,000,000	2001
CARROLL	06- 347.00	KY-389	BRX	RIGHT OF WAY	$100,000	2001
CARROLL	06- 347.00	KY-389	BRX	UTILITIES	$75,000	2001
CARROLL	06- 347.00	KY-389	BRX	CONSTRUCTION	$850,000	2002

CARROLL	06- 5009.00	I-71	SP	DESIGN	$90,000	2003
CARTER	09- 144.00	-	SP	DESIGN	$225,000	2003
CARTER	09- 159.00	US-60	STP	UTILITIES	$300,000	2001
CARTER	09- 159.00	US-60	STP	CONSTRUCTION	$3,375,000	2003
CARTER	09- 1041.00	KY-1947	BRX	RIGHT OF WAY	$50,000	2001
CARTER	09- 1041.00	KY-1947	BRX	UTILITIES	$45,000	2001
CARTER	09- 1041.00	KY-1947	BRX	CONSTRUCTION	$345,000	2003
CARTER	09- 2003.00	I-64	IM	DESIGN	$50,000	2004
CARTER	09- 5004.00	US-60	SP	DESIGN	$65,000	2001
CARTER	09- 5004.00	US-60	SP	RIGHT OF WAY	$20,000	2002
CARTER	09- 5004.00	US-60	SP	UTILITIES	$40,000	2002
CARTER	09- 5004.00	US-60	SP	CONSTRUCTION	$800,000	2003
CASEY	08- 142.00	KY-70	SP	DESIGN	$500,000	2004
CASEY	08- 164.00	US-127	STP	DESIGN	$150,000	2001
CASEY	08- 164.00	US-127	STP	RIGHT OF WAY	$200,000	2002
CASEY	08- 164.00	US-127	STP	UTILITIES	$100,000	2002
CASEY	08- 164.00	US-127	STP	CONSTRUCTION	$600,000	2003
CASEY	08- 5002.00	US-127	SP	DESIGN	$50,000	2001
CASEY	08- 5002.00	US-127	SP	RIGHT OF WAY	$12,000	2002
CASEY	08- 5002.00	US-127	SP	CONSTRUCTION	$280,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	RIGHT OF WAY	$5,000,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	UTILITIES	$2,000,000	2003
CHRISTIAN	02- 100.00	PE-9004	NH	CONSTRUCTION	$19,000,000	2004
CHRISTIAN	02- 213.00	I-24	IM	DESIGN	$500,000	2001
CHRISTIAN	02- 213.00	I-24	IM	RIGHT OF WAY	$1,000,000	2003
CHRISTIAN	02- 213.00	I-24	IM	UTILITIES	$750,000	2004
CHRISTIAN	02- 308.00	US-41A	NH	CONSTRUCTION	$10,000,000	2001
CHRISTIAN	02- 311.00	US-41A	NH	CONSTRUCTION	$11,000,000	2002
CHRISTIAN	02- 311.01	UA-41A	NH	UTILITIES	$2,000,000	2001
CHRISTIAN	02- 2000.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
CHRISTIAN	02- 7000.00	-	SP	CONSTRUCTION	$8,000,000	2001
CHRISTIAN	02- 7010.00	-	SP	CONSTRUCTION	$2,000,000	2001
CLARK	07- 314.00	KY-1958	SP	DESIGN	$200,000	2003
CLARK	07- 331.01	-	SP	RIGHT OF WAY	$3,000,000	2001
CLARK	07- 331.01	-	SP	UTILITIES	$2,635,000	2002
CLARK	07- 331.01	-	SP	CONSTRUCTION	$10,000,000	2003
CLARK	07- 1080.00	CR-1210	BRZ	CONSTRUCTION	$350,000	2001
CLARK	07- 2001.00	I-64	IM	CONSTRUCTION	$2,000,000	2002
CLARK	07- 2002.00	I-64	IM	CONSTRUCTION	$3,100,000	2002
CLARK	07- 2010.00	KY-9000	SP	DESIGN	$150,000	2003
CLARK	07- 2010.00	KY-9000	SP	CONSTRUCTION	$7,360,000	2004
CLAY	11- 273.01	US-421	SP	RIGHT OF WAY	$5,600,000	2002
CLAY	11- 273.01	US-421	SP	UTILITIES	$2,700,000	2004
CLAY	11- 1035.00	US-421	BRO	CONSTRUCTION	$800,000	2002
CLAY	11- 2005.00	DB-9006	SP	DESIGN	$90,000	2002
CLAY	11- 2006.00	DB-9006	SP	DESIGN	$50,000	2002
CLAY	11- 2006.00	DB-9006	SP	CONSTRUCTION	$5,000,000	2003

CLAY	11- 4087.00	CR-1118	SP	CONSTRUCTION	$800,000	2001
CLAY	11- 5000.00	KY-11	SP	RIGHT OF WAY	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	UTILITIES	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	CONSTRUCTION	$420,500	2002
CLAY	11- 5005.00	KY-66	SP	DESIGN	$80,000	2003
CLAY	11- 5005.00	KY-66	SP	RIGHT OF WAY	$20,000	2004
CLAY	11- 5005.00	KY-66	SP	UTILITIES	$20,000	2004
CLAY	11- 5006.00	KY-80	SP	DESIGN	$50,000	2004
CLINTON	08- 165.00	US-127	SP	UTILITIES	$2,500,000	2001
CLINTON	08- 165.00	US-127	SP	CONSTRUCTION	$7,000,000	2002
CLINTON	08- 260.02	US-127	SP	CONSTRUCTION	$7,000,000	2001
CLINTON	08- 260.10	US-127	STP	RIGHT OF WAY	$2,500,000	2001
CLINTON	08- 260.10	US-127	STP	UTILITIES	$3,000,000	2003
CLINTON	08- 260.10	US-127	STP	CONSTRUCTION	$8,500,000	2004
CLINTON	08- 1015.00	KY-1076	BRX	RIGHT OF WAY	$250,000	2003
CLINTON	08- 1015.00	KY-1076	BRX	UTILITIES	$150,000	2004
CRITTENDEN	01- 187.00	US-641	SP	DESIGN	$400,000	2001
CRITTENDEN	01- 250.01	US-60	SP	RIGHT OF WAY	$2,000,000	2001
CRITTENDEN	01- 250.01	US-60	SP	UTILITIES	$1,000,000	2002
CRITTENDEN	01- 250.01	US-60	SP	CONSTRUCTION	$14,000,000	2004
CRITTENDEN	01- 267.01	US-60	SP	RIGHT OF WAY	$1,200,000	2002
CRITTENDEN	01- 267.01	US-60	SP	UTILITIES	$1,520,000	2003
CRITTENDEN	01- 325.00	KY-91	SP	CONSTRUCTION	$262,000	2001
CRITTENDEN	01- 326.00	KY-91	SP	CONSTRUCTION	$262,000	2002
CRITTENDEN	01- 326.01	KY-91	SP	CONSTRUCTION	$262,000	2003
CRITTENDEN	01- 326.02	KY-91	SP	CONSTRUCTION	$262,000	2004
CUMBERLAND	08- 158.04	KY-61	SP	RIGHT OF WAY	$8,000,000	2001
CUMBERLAND	08- 158.04	KY-61	SP	UTILITIES	$7,000,000	2002
DAVIESS	02- 179.00	US-231	STP	CONSTRUCTION	$2,500,000	2004
DAVIESS	02- 221.00	KY-2121	SP	DESIGN	$750,000	2002
DAVIESS	02- 221.00	KY-2121	SP	RIGHT OF WAY	$780,000	2004
DAVIESS	02- 287.00	US-60	STP	RIGHT OF WAY	$4,000,000	2003
DAVIESS	02- 287.00	US-60	STP	UTILITIES	$2,500,000	2004
DAVIESS	02- 2012.00	US-60B	SP	CONSTRUCTION	$3,600,000	2001
EDMONSON	03- 140.00	KY-101	SP	RIGHT OF WAY	$750,000	2002
EDMONSON	03- 140.00	KY-101	SP	UTILITIES	$500,000	2002
EDMONSON	03- 140.00	KY-101	SP	CONSTRUCTION	$5,000,000	2004
EDMONSON	03- 141.00	KY-70	SP	RIGHT OF WAY	$300,000	2001
EDMONSON	03- 141.00	KY-70	SP	UTILITIES	$200,000	2001
EDMONSON	03- 141.00	KY-70	SP	CONSTRUCTION	$2,000,000	2002
EDMONSON	03-7010.00	KY-259	SP	DESIGN	$300,000	2002
EDMONSON	03-7010.00	KY-259	SP	RIGHT OF WAY	$400,000	2003
EDMONSON	03-7030.00	KY-259	SP	DESIGN	$6,300,000	2003
ELLIOTT	09- 126.00	KY-7	SP	RIGHT OF WAY	$2,000,000	2001
ELLIOTT	09- 126.00	KY-7	SP	UTILITIES	$850,000	2001
ELLIOTT	09- 126.00	KY-7	SP	CONSTRUCTION	$8,000,000	2002
ELLIOTT	09- 126.50	KY-7	STP	RIGHT OF WAY	$3,500,000	2001

ELLIOTT	09- 126.50	KY-7	STP	UTILITIES	$1,000,000	2002
ELLIOTT	09- 293.01	KY-7	SP	DESIGN	$400,000	2002
ELLIOTT	09- 293.01	KY-7	SP	RIGHT OF WAY	$1,000,000	2004
ELLIOTT	09- 293.01	KY-7	SP	UTILITIES	$750,000	2004
ELLIOTT	09- 1039.00	KY-706	BRX	RIGHT OF WAY	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	UTILITIES	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	CONSTRUCTION	$230,000	2002
ESTILL	10- 363.00	KY-89	SP	RIGHT OF WAY	$2,200,000	2001
ESTILL	10- 363.00	KY-89	SP	UTILITIES	$1,000,000	2003
ESTILL	10- 364.00	KY-82	SP	RIGHT OF WAY	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	UTILITIES	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	CONSTRUCTION	$800,000	2004
ESTILL	10- 1040.00	KY-594	BRX	RIGHT OF WAY	$100,000	2001
ESTILL	10- 1040.00	KY-594	BRX	UTILITIES	$75,000	2001
ESTILL	10- 1040.00	KY-594	BRX	CONSTRUCTION	$250,000	2002
ESTILL	10- 1045.00	CR-5323	BRZ	CONSTRUCTION	$275,000	2001
ESTILL	10- 1053.00	KY-594	BRX	CONSTRUCTION	$150,000	2001
ESTILL	10- 5001.00	KY-89	SP	CONSTRUCTION	$262,700	2001
FAYETTE	07- 122.00	US-25	STP	RIGHT OF WAY	$4,300,000	2001
FAYETTE	07- 122.00	US-25	STP	UTILITIES	$3,000,000	2002
FAYETTE	07- 125.20	KY-4	STP	DESIGN	$200,000	2003
FAYETTE	07- 144.00	US-68	SP	DESIGN	$400,000	2004
FAYETTE	07- 325.01	US-25	SP	UTILITIES	$3,090,000	2001
FAYETTE	07- 325.01	US-25	SP	CONSTRUCTION	$2,500,000	2002
FAYETTE	07- 329.00	KY-922	STP	CONSTRUCTION	$9,200,000	2003
FAYETTE	07- 356.00	KY-169	SP	CONSTRUCTION	$125,000	2001
FAYETTE	07- 357.00	KY-169	SP	CONSTRUCTION	$125,000	2002
FAYETTE	07- 357.01	KY-169	SP	CONSTRUCTION	$125,000	2003
FAYETTE	07- 357.02	KY-169	SP	CONSTRUCTION	$125,000	2004
FAYETTE	07- 362.00	KY-4	STP	DESIGN	$250,000	2002
FAYETTE	07- 996.05	-	SLX	CONSTRUCTION	$5,800,000	2001
FAYETTE	07- 996.06	-	SLX	CONSTRUCTION	$5,800,000	2002
FAYETTE	07- 996.07	-	SLX	CONSTRUCTION	$5,800,000	2003
FAYETTE	07- 996.08	-	SLX	CONSTRUCTION	$5,800,000	2004
FAYETTE	07- 1071.00	CR-9999	BRO	CONSTRUCTION	$715,000	2001
FAYETTE	07- 1088.00	KY-1970	BRX	RIGHT OF WAY	$100,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	UTILITIES	$40,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	CONSTRUCTION	$200,000	2004
FAYETTE	07- 5004.00	US-421	SP	DESIGN	$80,000	2002
FAYETTE	07- 5004.00	US-421	SP	CONSTRUCTION	$750,000	2003
FLEMING	09- 174.50	KY-11	STP	RIGHT OF WAY	$750,000	2001
FLEMING	09- 174.50	KY-11	STP	UTILITIES	$500,000	2001
FLEMING	09- 174.50	KY-11	STP	CONSTRUCTION	$10,500,000	2003
FLOYD	12- 108.00	US-23	SP	DESIGN	$150,000	2004
FLOYD	12- 282.00	KY-122	SP	UTILITIES	$200,000	2001
FLOYD	12- 282.00	KY-122	SP	CONSTRUCTION	$2,250,000	2002
FLOYD	12- 293.00	KY-1428	STP	CONSTRUCTION	$3,000,000	2001

FLOYD	12- 301.00	KY-979	SP	UTILITIES	$2,000,000	2001
FLOYD	12- 301.00	KY-979	SP	CONSTRUCTION	$11,000,000	2003
FLOYD	12- 301.10	KY-680	SP	RIGHT OF WAY	$3,500,000	2001
FLOYD	12- 301.10	KY-680	SP	UTILITIES	$3,500,000	2001
FLOYD	12- 301.20	KY-979	SP	DESIGN	$1,200,000	2002
FLOYD	12- 301.20	KY-979	SP	RIGHT OF WAY	$3,500,000	2003
FLOYD	12- 402.00	KY-3384	SP	CONSTRUCTION	$2,100,000	2001
FLOYD	12- 1039.00	KY-550	BRO	CONSTRUCTION	$1,000,000	2002
FLOYD	12- 1040.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1041.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1047.00	CR-1390	BRZ	CONSTRUCTION	$600,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	DESIGN	$100,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	RIGHT OF WAY	$60,000	2003
FLOYD	12- 1060.00	CR-1265	BRZ	UTILITIES	$200,000	2003
FLOYD	12- 5004.00	KY-80	SP	RIGHT OF WAY	$20,000	2001
FLOYD	12- 5004.00	KY-80	SP	CONSTRUCTION	$800,000	2002
FLOYD	12- 5007.00	KY-80	SP	DESIGN	$210,000	2002
FLOYD	12- 5007.00	KY-80	SP	RIGHT OF WAY	$45,000	2003
FLOYD	12- 5009.00	KY-321	SP	DESIGN	$200,000	2004
FRANKLIN	05- 97.50	US-60	STP	RIGHT OF WAY	$800,000	2002
FRANKLIN	05- 97.50	US-60	STP	UTILITIES	$500,000	2004
FRANKLIN	05- 305.01	US-421	STP	RIGHT OF WAY	$800,000	2001
FRANKLIN	05- 305.01	US-421	STP	UTILITIES	$600,000	2003
FRANKLIN	05- 305.01	US-421	STP	CONSTRUCTION	$8,000,000	2004
FRANKLIN	05- 372.00	US-460	STP	RIGHT OF WAY	$4,500,000	2001
FRANKLIN	05- 372.00	US-460	STP	UTILITIES	$1,000,000	2003
FRANKLIN	05- 372.00	US-460	STP	CONSTRUCTION	$11,500,000	2004
FRANKLIN	05- 2005.00	I-64	IM	DESIGN	$210,000	2001
FRANKLIN	05- 2005.00	I-64	IM	CONSTRUCTION	$13,900,000	2003
FRANKLIN	05- 2023.00	US-60	SP	DESIGN	$50,000	2004
FRANKLIN	05- 5002.00	US-421	SP	DESIGN	$80,000	2001
FRANKLIN	05- 5002.00	US-421	SP	CONSTRUCTION	$750,000	2002
FRANKLIN	05- 5007.00	KY-1900	SP	DESIGN	$60,000	2004
FULTON	01- 319.00	KY-1354	SP	CONSTRUCTION	$125,000	2001
FULTON	01- 320.00	KY-1354	SP	CONSTRUCTION	$125,000	2002
FULTON	01- 320.01	KY-1354	SP	CONSTRUCTION	$125,000	2003
FULTON	01- 320.02	KY-1354	SP	CONSTRUCTION	$125,000	2004
FULTON	01- 1118.00	US-45	BRO	RIGHT OF WAY	$200,000	2001
FULTON	01- 1118.00	US-45	BRO	UTILITIES	$605,000	2001
FULTON	01- 1118.00	US-45	BRO	CONSTRUCTION	$1,200,000	2003
FULTON	01- 2008.00	PU-9003	SP	CONSTRUCTION	$900,000	2001
GALLATIN	06- 202.00	US-42	SP	RIGHT OF WAY	$250,000	2001
GALLATIN	06- 202.00	US-42	SP	UTILITIES	$100,000	2002
GALLATIN	06- 202.00	US-42	SP	CONSTRUCTION	$5,700,000	2003
GALLATIN	06- 333.01	-	STP	CONSTRUCTION	$10,000,000	2001
GALLATIN	06- 333.02	-	STP	CONSTRUCTION	$10,000,000	2004
GALLATIN	06- 2005.00	I-71	IM	CONSTRUCTION	$3,300,000	2004

GALLATIN	06- 2006.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GALLATIN	06- 2007.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GARRARD	07- 26.01	US-27	NH	RIGHT OF WAY	$3,500,000	2001
GARRARD	07- 26.01	US-27	NH	UTILITIES	$1,500,000	2002
GARRARD	07- 26.01	US-27	NH	CONSTRUCTION	$12,000,000	2003
GARRARD	07- 26.02	US-27	NH	CONSTRUCTION	$4,000,000	2004
GARRARD	07- 302.03	KY-52	STP	CONSTRUCTION	$3,800,000	2002
GARRARD	07- 302.04	KY-52	STP	CONSTRUCTION	$7,453,000	2001
GRANT	06- 72.02	I-75	IM	CONSTRUCTION	$12,000,000	2001
GRANT	06- 72.03	I-75	NH	CONSTRUCTION	$9,000,000	2001
GRANT	06- 72.04	I-75	IM	CONSTRUCTION	$6,000,000	2002
GRANT	06- 72.05	I-75	NH	CONSTRUCTION	$17,000,000	2002
GRANT	06- 72.12	I-75	IM	CONSTRUCTION	$16,000,000	2004
GRANT	06- 72.13	I-75	NH	CONSTRUCTION	$10,000,000	2004
GRANT	06- 339.00	I-75	STP	CONSTRUCTION	$7,000,000	2002
GRANT	06- 345.00	-	SP	CONSTRUCTION	$9,200,000	2001
GRANT	06- 345.10	-	SP	UTILITIES	$250,000	2001
GRANT	06- 345.10	-	SP	CONSTRUCTION	$2,500,000	2003
GRANT	06- 5000.00	US-25	SP	CONSTRUCTION	$282,000	2001
GRAYSON	04- 122.00	KY-259	SP	DESIGN	$500,000	2004
GRAYSON	04- 193.00	US-62	SP	RIGHT OF WAY	$500,000	2001
GRAYSON	04- 193.00	US-62	SP	UTILITIES	$300,000	2002
GRAYSON	04- 193.00	US-62	SP	CONSTRUCTION	$3,000,000	2004
GRAYSON	04- 308.00	-	STP	DESIGN	$1,200,000	2003
GRAYSON	04- 1013.01	KY-259	STP	CONSTRUCTION	$10,700,000	2001
GRAYSON	04- 2005.00	WK-9001	NH	DESIGN	$25,000	2002
GRAYSON	04- 2005.00	WK-9001	NH	CONSTRUCTION	$1,200,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	CONSTRUCTION	$4,100,000	2004
GRAYSON	04- 2009.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2009.00	WK-9001	STP	CONSTRUCTION	$4,000,000	2004
GREEN	04- 310.00	-	STP	DESIGN	$800,000	2003
GREENUP	09- 109.00	KY-8S	STP	CONSTRUCTION	$2,500,000	2004
GREENUP	09- 132.00	KY-2	SP	DESIGN	$500,000	2004
GREENUP	09- 212.11	-	SP	CONSTRUCTION	$20,000,000	2001
GREENUP	09- 212.20	-	SP	CONSTRUCTION	$8,000,000	2001
GREENUP	09- 212.21	-	SP	CONSTRUCTION	$12,000,000	2002
GREENUP	09- 212.30	-	SP	CONSTRUCTION	$19,000,000	2003
GREENUP	09- 1028.00	KY-503	BRO	CONSTRUCTION	$630,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	RIGHT OF WAY	$70,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	UTILITIES	$30,000	2002
GREENUP	09- 5001.00	KY-503	SP	RIGHT OF WAY	$100,000	2001
GREENUP	09- 5001.00	KY-503	SP	CONSTRUCTION	$570,000	2002
GREENUP	09- 5006.00	KY-1	SP	DESIGN	$35,000	2003
GREENUP	09- 5006.00	KY-1	SP	RIGHT OF WAY	$10,000	2004
GREENUP	09- 5006.00	KY-1	SP	UTILITIES	$20,000	2004
HANCOCK	02- 125.00	US-60	STP	DESIGN	$150,000	2004

HANCOCK	02- 216.00	CR-1102	BRZ	DESIGN	$50,000	2001
HANCOCK	02- 216.00	CR-1102	BRZ	RIGHT OF WAY	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	UTILITIES	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	CONSTRUCTION	$200,000	2004
HANCOCK	02- 2022.00	US-60	SP	CONSTRUCTION	$1,210,000	2004
HARDIN	04- 189.00	US-31W	SP	CONSTRUCTION	$500,000	2001
HARDIN	04- 190.00	US-31W	SP	UTILITIES	$1,750,000	2001
HARDIN	04- 190.00	US-31W	SP	CONSTRUCTION	$1,720,000	2002
HARDIN	04- 297.10	KY-313	STP	RIGHT OF WAY	$4,500,000	2001
HARDIN	04- 2001.00	I-65	IM	CONSTRUCTION	$1,800,000	2002
HARDIN	04- 2003.00	US-31W	SP	DESIGN	$100,000	2002
HARDIN	04- 2003.00	US-31W	SP	CONSTRUCTION	$4,400,000	2004
HARDIN	04- 2007.00	US-31WB	SP	DESIGN	$85,000	2003
HARDIN	04- 5002.00	US-31W	SP	CONSTRUCTION	$750,000	2002
HARDIN	04- 5003.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5003.00	BG-9002	SP	CONSTRUCTION	$500,000	2003
HARDIN	04- 5004.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5004.00	BG-9002	SP	RIGHT OF WAY	$25,000	2002
HARDIN	04- 5004.00	BG-9002	SP	CONSTRUCTION	$750,000	2003
HARDIN	04- 5005.00	I-65	SP	DESIGN	$100,000	2003
HARLAN	11- 254.00	US-421	SP	UTILITIES	$500,000	2001
HARLAN	11- 254.00	US-421	SP	CONSTRUCTION	$21,000,000	2002
HARLAN	11- 264.20	US-421	SP	CONSTRUCTION	$14,200,000	2001
HARLAN	11- 264.30	US-421	SP	CONSTRUCTION	$10,000,000	2001
HARLAN	11- 264.31	US-421	SP	CONSTRUCTION	$19,000,000	2002
HARLAN	11- 267.11	US-421	SP	DESIGN	$500,000	2003
HARLAN	11- 269.00	US-421	SP	RIGHT OF WAY	$5,500,000	2002
HARLAN	11- 269.00	US-421	SP	UTILITIES	$300,000	2004
HARLAN	11- 1036.00	KY-215	BRX	CONSTRUCTION	$470,000	2001
HARLAN	11- 1038.00	KY-215	BRX	CONSTRUCTION	$700,000	2001
HARLAN	11- 1049.00	KY-1601	BRX	RIGHT OF WAY	$50,000	2002
HARLAN	11- 1049.00	KY-1601	BRX	UTILITIES	$50,000	2002
HARLAN	11- 5003.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5003.00	KY-38	SP	RIGHT OF WAY	$40,000	2003
HARLAN	11- 5003.00	KY-38	SP	UTILITIES	$15,000	2003
HARLAN	11- 5003.00	KY-38	SP	CONSTRUCTION	$1,500,000	2004
HARLAN	11- 5004.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5004.00	KY-38	SP	RIGHT OF WAY	$50,000	2003
HARLAN	11- 5004.00	KY-38	SP	UTILITIES	$20,000	2003
HARLAN	11- 7020.00	-	SP	CONSTRUCTION	$500,000	2002
HARRISON	06- 119.02	US-27	SP	RIGHT OF WAY	$2,400,000	2001
HARRISON	06- 119.02	US-27	SP	UTILITIES	$1,000,000	2002
HARRISON	06- 1043.00	CR-1062	BRZ	DESIGN	$200,000	2002
HART	04- 11 00	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 11.10	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 194.00	US-31W	SP	RIGHT OF WAY	$150,000	2001
HART	04- 194.00	US-31W	SP	UTILITIES	$100,000	2002

HART	04- 194.00	US-31W	SP	CONSTRUCTION	$600,000	2004
HENDERSON	02- 69.00	I-69	SP	DESIGN	$600,000	2002
HENDERSON	02- 79.10	US-60	SP	DESIGN	$1,200,000	2002
HENDERSON	02- 79.10	US-60	STP	RIGHT OF WAY	$2,500,000	2003
HENDERSON	02- 79.02	US-60	STP	RIGHT OF WAY	$4,000,000	2002
HENDERSON	02- 79.02	US-60	STP	UTILITIES	$2,000,000	2003
HENDERSON	02- 101.00	US-60	SAF	CONSTRUCTION	$3,500,000	2002
HENDERSON	02- 126.00	US-60	STP	DESIGN	$200,000	2001
HENDERSON	02- 126.00	US-60	STP	RIGHT OF WAY	$1,000,000	2003
HENDERSON	02- 380.00	US-60	SP	CONSTRUCTION	$600,000	2001
HENDERSON	02- 5000.00	AU-9005	SP	CONSTRUCTION	$285,500	2001
HENDERSON	02- 5001.00	AU-9005	SP	CONSTRUCTION	$350,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	RIGHT OF WAY	$10,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	CONSTRUCTION	$248,500	2002
HENRY	05- 2010.00	I-71	IM	CONSTRUCTION	$1,000,000	2002
HENRY	05- 5000.00	KY-389	SP	CONSTRUCTION	$628,700	2002
HICKMAN	01- 182.00	US-51	STP	DESIGN	$700,000	2002
HICKMAN	01- 1114.00	KY-1698	BRZ	CONSTRUCTION	$300,000	2002
HOPKINS	02- 215.00	KY-70	SP	RIGHT OF WAY	$2,800,000	2001
HOPKINS	02- 215.00	KY-70	SP	UTILITIES	$2,650,000	2002
HOPKINS	02- 2007.00	PE-9004	SP	DESIGN	$80,000	2001
HOPKINS	02- 2007.00	PE-9004	STP	CONSTRUCTION	$5,500,000	2003
HOPKINS	02- 2010.00	PE-9004	SP	DESIGN	$200,000	2003
JACKSON	11- 113.00	US-421	STP	DESIGN	$200,000	2003
JEFFERSON	05- 15.00	I-264	IM	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 21.00	I-265	IM	UTILITIES	$1,000,000	2002
JEFFERSON	05- 21.00	I-265	IM	CONSTRUCTION	$20,000,000	2003
JEFFERSON	05- 23.00	I-64	IM	DESIGN	$1,500,000	2001
JEFFERSON	05- 23.00	I-64	IM	CONSTRUCTION	$7,000,000	2003
JEFFERSON	05- 41.00	I-265	IM	RIGHT OF WAY	$2,000,000	2002
JEFFERSON	05- 41.00	I-265	IM	UTILITIES	$1,000,000	2003
JEFFERSON	05- 52.00	I-64	IM	RIGHT OF WAY	$2,500,000	2003
JEFFERSON	05- 52.00	I-64	IM	UTILITIES	$300,000	2003
JEFFERSON	05- 52.00	I-64	IM	CONSTRUCTION	$8,000,000	2004
JEFFERSON	05- 48.01	I-71	NH	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 48.01	I-71	NH	UTILITIES	$2,000,000	2004
JEFFERSON	05- 76.01	-	STP	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 76.02	-	SLO	CONSTRUCTION	$4,750,000	2001
JEFFERSON	05- 91.02	-	SLO	CONSTRUCTION	$4,000,000	2003
JEFFERSON	05- 110.00	US-31	NH	CONSTRUCTION	$2,500,000	2004
JEFFERSON	05- 118.02	-	SP	DESIGN	$3,000,000	2001
JEFFERSON	05- 118.10	-	SP	DESIGN	$6,000,000	2002
JEFFERSON	05- 118.11	-	SP	DESIGN	$6,000,000	2003
JEFFERSON	05- 118.20	-	SP	RIGHT OF WAY	$6,000,000	2004
JEFFERSON	05- 136.00	I-265	NH	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 247.10	KY-1450	SP	UTILITIES	$3,700,000	2003
JEFFERSON	05- 247.20	KY-1450	SP	DESIGN	$300,000	2002

JEFFERSON	05- 322.00	-	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 322.02	-	SLO	CONSTRUCTION	$10,087,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	UTILITIES	$3,500,000	2002
JEFFERSON	05- 325.01	KY-1447	SP	UTILITIES	$6,500,000	2001
JEFFERSON	05- 325.01	KY-1447	STP	CONSTRUCTION	$15,000,000	2002
JEFFERSON	05- 342.02	-	CM	CONSTRUCTION	$1,800,000	2002
JEFFERSON	05- 344.00	KY-1747	SP	DESIGN	$1,500,000	2003
JEFFERSON	05- 381.00	-	SLO	CONSTRUCTION	$444,000	2001
JEFFERSON	05- 382.00	-	SLO	CONSTRUCTION	$511,000	2002
JEFFERSON	05- 383.00	-	SLO	CONSTRUCTION	$588,000	2003
JEFFERSON	05- 384.00	-	SLO	CONSTRUCTION	$676,000	2004
JEFFERSON	05- 385.00	-	SLO	CONSTRUCTION	$2,000,000	2003
JEFFERSON	05- 386.00	-	SLO	RIGHT OF WAY	$250,000	2001
JEFFERSON	05- 386.00	-	SLO	UTILITIES	$375,000	2003
JEFFERSON	05- 386.00	-	SLO	CONSTRUCTION	$1,500,000	2004
JEFFERSON	05- 387.00	-	SLO	CONSTRUCTION	$1,000,000	2003
JEFFERSON	05- 430.02	KY-1020	SLO	CONSTRUCTION	$4,300,000	2003
JEFFERSON	05- 430.03	KY-1020	SP	CONSTRUCTION	$1,000,000	2001
JEFFERSON	05- 435.10	-	SP	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 965.08	-	SLO	CONSTRUCTION	$14,300,000	2004
JEFFERSON	05- 972.00	KY-42	SP	RIGHT OF WAY	$250,000	2002
JEFFERSON	05- 972.00	KY-42	SP	UTILITIES	$300,000	2002
JEFFERSON	05- 982.00	-	SLO	RIGHT OF WAY	$150,000	2003
JEFFERSON	05- 982.00	-	SLO	UTILITIES	$100,000	2004
JEFFERSON	05- 982.00	-	SLO	CONSTRUCTION	$400,000	2004
JEFFERSON	05- 1006.00	CR-9999	BRZ	CONSTRUCTION	$275,000	2002
JEFFERSON	05- 1012.05	-	CM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 1012.06	-	CM	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 1012.07	-	CM	CONSTRUCTION	$5,000,000	2003
JEFFERSON	05- 1012.08	-	CM	CONSTRUCTION	$3,400,000	2004
JEFFERSON	05- 1018.00	CR-9999	BRZ	RIGHT OF WAY	$100,000	2001
JEFFERSON	05- 1018.00	CR-9999	BRZ	UTILITIES	$75,000	2001
JEFFERSON	05- 2000.00	I-264	IM	DESIGN	$300,000	2001
JEFFERSON	05- 2000.00	I-264	IM	CONSTRUCTION	$10,000,000	2002
JEFFERSON	05- 2000.01	I-264	IM	CONSTRUCTION	$10,000,000	2003
JEFFERSON	05- 2001.00	I-264	IM	CONSTRUCTION	$8,700,000	2001
JEFFERSON	05- 2002.00	I-265	IM	DESIGN	$20,000	2002
JEFFERSON	05- 2002.00	I-265	IM	CONSTRUCTION	$6,200,000	2004
JEFFERSON	05- 2004.00	I-265	IM	CONSTRUCTION	$2,000,000	2001
JEFFERSON	05- 2007.00	I-64	IM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 2024.00	KY-841	SP	CONSTRUCTION	$1,820,000	2001
JEFFERSON	05- 2026.00	US-31W	SP	CONSTRUCTION	$350,000	2001
JEFFERSON	05- 2027.00	KY-1020	SP	CONSTRUCTION	$500,000	2001
JESSAMINE	07- 87.02	-	STP	RIGHT OF WAY	$2,500,000	2001
JESSAMINE	07- 87.02	-	STP	UTILITIES	$1,000,000	2002
JESSAMINE	07- 318.01	US-68	STP	RIGHT OF WAY	$2,500,000	2003
JESSAMINE	07- 318.01	US-68	STP	UTILITIES	$1,000,000	2004

JESSAMINE	07- 1078.00	KY-29	BRX	CONSTRUCTION	$850,000	2001
JESSAMINE	07- 5006.00	US-68	SP	DESIGN	$60,000	2003
JOHNSON	12- 294.00	KY-40	SP	CONSTRUCTION	$3,600,000	2001
JOHNSON	12- 1036.00	KY-40	BRO	CONSTRUCTION	$2,500,000	2002
JOHNSON	12- 5002.00	KY-1100	SP	CONSTRUCTION	$350,000	2002
JOHNSON	12- 5008.00	KY-321	SP	DESIGN	$220,000	2002
JOHNSON	12- 5008.00	KY-321	SP	RIGHT OF WAY	$60,000	2003
KENTON	06- 71.03	KY-1303	SNK	RIGHT OF WAY	$4,000,000	2002
KENTON	06- 71.03	KY-1303	SNK	UTILITIES	$1,000,000	2004
KENTON	06- 273.00	KY-1120	SNK	CONSTRUCTION	$4,500,000	2001
KENTON	06- 286.01	-	SP	RIGHT OF WAY	$250,000	2001
KENTON	06- 286.01	-	SP	UTILITIES	$200,000	2002
KENTON	06- 286.01	-	SP	CONSTRUCTION	$9,000,000	2004
KENTON	06- 300.00	-	STP	DESIGN	$2,100,000	2001
KENTON	06- 300.00	-	STP	CONSTRUCTION	$14,000,000	2002
KENTON	06- 313.10	KY-17	SP	UTILITIES	$1,000,000	2001
KENTON	06- 313.10	KY-17	SP	CONSTRUCTION	$10,000,000	2002
KENTON	06- 344.00	KY-16	SP	RIGHT OF WAY	$7,900,000	2001
KENTON	06- 344.00	KY-16	SNK	UTILITIES	$8,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	UTILITIES	$1,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	CONSTRUCTION	$2,800,000	2002
KENTON	06- 2003.00	I-275	IM	CONSTRUCTION	$1,000,000	2002
KENTON	06- 5002.00	KY-1072	SP	RIGHT OF WAY	$20,000	2001
KENTON	06- 5002.00	KY-1072	SP	CONSTRUCTION	$450,000	2002
KENTON	06- 5007.00	I-275	SP	DESIGN	$150,000	2002
KENTON	06- 5007.00	I-275	SP	CONSTRUCTION	$1,500,000	2004
KENTON	06- 5008.00	I-275	SP	DESIGN	$175,000	2002
KNOTT	12- 2000.00	KY-80	SP	DESIGN	$25,000	2004
KNOTT	12- 5000.00	KY-80	SP	CONSTRUCTION	$417,000	2001
KNOTT	12- 5001.00	KY-550	SP	RIGHT OF WAY	$5,000	2001
KNOTT	12- 5001.00	KY-550	SP	CONSTRUCTION	$173,900	2002
KNOTT	12- 5006.00	KY-80	SP	DESIGN	$210,000	2002
KNOTT	12- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
KNOTT	12- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
KNOX	11- 112.00	-	SP	DESIGN	$400,000	2003
KNOX	11- 218.00	KY-11	SP	RIGHT OF WAY	$150,000	2001
KNOX	11- 218.00	KY-11	SP	UTILITIES	$50,000	2001
KNOX	11- 218.00	KY-11	SP	CONSTRUCTION	$405,000	2002
LARUE	04- 121.01	KY-210	STP	CONSTRUCTION	$8,000,000	2001
LARUE	04- 121.02	KY-210	STP	CONSTRUCTION	$12,000,000	2002
LARUE	04- 1047.00	KY-470	BRX	CONSTRUCTION	$350,000	2002
LARUE	04- 5006.00	KY-84	SP	DESIGN	$60,000	2004
LAUREL	11- 8.00	I-75	NH	CONSTRUCTION	$14,000,000	2003
LAUREL	11- 9.01	I-75	NH	CONSTRUCTION	$10,000,000	2003
LAUREL	11- 9.02	I-75	NH	CONSTRUCTION	$5,000,000	2004
LAUREL	11- 15.00	I-75	STP	CONSTRUCTION	$16,000,000	2003
LAUREL	11- 15.01	I-75	SP	CONSTRUCTION	$7,500,000	2003

LAUREL	11- 15.02	I-75	SP	CONSTRUCTION	$13,500,000	2004
LAUREL	11- 278.10	KY-30	SP	CONSTRUCTION	$10,000,000	2001
LAUREL	11- 278.12	KY-30	SP	CONSTRUCTION	$7,000,000	2003
LAUREL	11- 278.20	KY-30	SP	DESIGN	$2,500,000	2001
LAUREL	11- 278.20	KY-30	SP	RIGHT OF WAY	$4,000,000	2003
LAUREL	11- 1047.00	KY-1305	BRX	CONSTRUCTION	$200,000	2002
LAUREL	11- 2004.00	DB-9006	SP	CONSTRUCTION	$7,500,000	2002
LAUREL	11- 2004.01	DB-9006	SP	CONSTRUCTION	$8,700,000	2004
LAUREL	11- 2007.00	US-25E	SP	DESIGN	$50,000	2003
LAWRENCE	12- 3.00	US-23	NH	RIGHT OF WAY	$1,700,000	2001
LAWRENCE	12- 3.00	US-23	NH	UTILITIES	$750,000	2003
LAWRENCE	12- 3.00	US-23	NH	CONSTRUCTION	$8,500,000	2004
LAWRENCE	12- 284.00	KY-32	STP	DESIGN	$600,000	2004
LAWRENCE	12- 1033.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1034.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1063.00	CR-1124	BRZ	CONSTRUCTION	$500,000	2001
LEE	10- 292.00	KY-11	SP	DESIGN	$1,200,000	2002
LEE	10- 1056.00	CR-1147	BRZ	DESIGN	$75,000	2002
LEE	10- 1056.00	CR-1147	BRZ	RIGHT OF WAY	$50,000	2004
LEE	10- 1056.00	CR-1147	BRZ	UTILITIES	$50,000	2004
LESLIE	11- 12.00	US-421	STP	DESIGN	$500,000	2002
LESLIE	11- 119.00	DB-9006	SP	DESIGN	$400,000	2003
LETCHER	12- 121.00	KY-15	SP	DESIGN	$150,000	2003
LETCHER	12- 311.10	US-119	APD	CONSTRUCTION	$10,000,000	2001
LETCHER	12- 311.11	US-119	APD	CONSTRUCTION	$15,000,000	2003
LETCHER	12- 311.12	US-119	APD	CONSTRUCTION	$21,000,000	2004
LETCHER	12- 314.00	US-119	APD	DESIGN	$3,500,000	2001
LETCHER	12- 314.00	US-119	APD	RIGHT OF WAY	$4,152,000	2003
LETCHER	12- 314.00	US-119	APD	UTILITIES	$1,725,000	2004
LETCHER	12- 1059.00	CR-1371	BRZ	CONSTRUCTION	$550,000	2002
LETCHER	12- 1061.00	KY-113	BRX	CONSTRUCTION	$600,000	2002
LETCHER	12- 5003.00	KY-588	SP	CONSTRUCTION	$400,000	2002
LINCOLN	08- 161.00	US-150	STP	UTILITIES	$200,000	2001
LINCOLN	08- 161.00	US-150	STP	CONSTRUCTION	$4,500,000	2002
LINCOLN	08- 163.00	US-150	SP	DESIGN	$1,500,000	2001
LINCOLN	08- 163.00	US-150	STP	RIGHT OF WAY	$3,000,000	2003
LINCOLN	08- 5006.00	US-27	SP	DESIGN	$60,000	2003
LINCOLN	08- 5006.00	US-27	SP	RIGHT OF WAY	$50,000	2004
LINCOLN	08- 5006.00	US-27	SP	UTILITIES	$60,000	2004
LIVINGSTON	01- 184.00	US-60	SP	DESIGN	$750,000	2002
LIVINGSTON	01- 184.00	US-60	STP	RIGHT OF WAY	$1,250,000	2004
LIVINGSTON	01- 330.00	US-60	SP	DESIGN	$850,000	2003
LIVINGSTON	01- 1123.00	KY-952	BRX	CONSTRUCTION	$750,000	2001
LIVINGSTON	01- 2003.00	I-24	IM	CONSTRUCTION	$800,000	2002
LIVINGSTON	01- 5001.00	US-60	SP	RIGHT OF WAY	$10,000	2001
LIVINGSTON	01- 5001.00	US-60	SP	CONSTRUCTION	$350,000	2001
LOGAN	03- 148.00	-	SP	RIGHT OF WAY	$1,500,000	2002

LOGAN	03- 148.00	-	SP	UTILITIES	$500,000	2004
LYON	01- 307.01	US-62	SP	RIGHT OF WAY	$4,000,000	2002
LYON	01- 307.01	US-62	SP	UTILITIES	$4,000,000	2004
LYON	01- 5002.00	KY-295	SP	RIGHT OF WAY	$20,000	2001
LYON	01- 5002.00	KY-295	SP	UTILITIES	$15,000	2001
LYON	01- 5002.00	KY-295	SP	CONSTRUCTION	$450,000	2002
MADISON	07- 28.10	CR-1206	SP	RIGHT OF WAY	$350,000	2001
MADISON	07- 28.10	CR-1206	SP	UTILITIES	$2,400,000	2001
MADISON	07- 28.10	CR-1206	SP	CONSTRUCTION	$3,000,000	2002
MADISON	07- 214.00	KY-169	SP	RIGHT OF WAY	$1,500,000	2001
MADISON	07- 214.00	KY-169	SP	UTILITIES	$1,500,000	2003
MADISON	07- 214.00	KY-169	SP	CONSTRUCTION	$6,500,000	2004
MADISON	07- 309.00	KY-52	STP	UTILITIES	$1,710,000	2001
MADISON	07- 309.00	KY-52	STP	CONSTRUCTION	$9,250,000	2002
MADISON	07- 5003.00	KY-52	SP	DESIGN	$150,000	2001
MADISON	07- 5003.00	KY-52	SP	CONSTRUCTION	$1,250,000	2002
MAGOFFIN	10- 121.00	US-460	SP	DESIGN	$1,000,000	2003
MAGOFFIN	10- 280.00	US-460	STP	CONSTRUCTION	$4,500,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	RIGHT OF WAY	$2,000,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	UTILITIES	$1,500,000	2003
MAGOFFIN	12- 1.10	KY-114	NH	CONSTRUCTION	$15,000,000	2004
MARION	04- 192.00	US-68	SP	DESIGN	$1,200,000	2001
MARION	04- 192.00	US-68	SP	RIGHT OF WAY	$2,000,000	2003
MARION	04- 309.00	KY-49	STP	RIGHT OF WAY	$300,000	2001
MARION	04- 309.00	KY-49	STP	UTILITIES	$200,000	2001
MARSHALL	01- 180.70	US-68	BRO	UTILITIES	$150,000	2001
MARSHALL	01- 180.70	US-68	BRO	CONSTRUCTION	$7,000,000	2004
MARSHALL	01- 1117.00	KY-58	BRO	RIGHT OF WAY	$250,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	UTILITIES	$1,275,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	CONSTRUCTION	$2,000,000	2003
MARSHALL	01- 1121.00	US-68	BRO	CONSTRUCTION	$2,500,000	2002
MARSHALL	01- 1130.00	KY-1824	BRX	RIGHT OF WAY	$75,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	UTILITIES	$295,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	CONSTRUCTION	$500,000	2003
MARSHALL	01- 5000.00	KY-80	SP	CONSTRUCTION	$150,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	DESIGN	$60,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	RIGHT OF WAY	$10,000	2002
MARSHALL	01- 5003.00	PU-9003	SP	CONSTRUCTION	$450,000	2004
MARTIN	12- 154.01	KY-40	SP	CONSTRUCTION	$4,000,000	2001
MARTIN	12- 154.02	KY-40	STP	CONSTRUCTION	$11,000,000	2001
MARTIN	12- 154.03	KY-40	STP	CONSTRUCTION	$25,000,000	2002
MARTIN	12- 154.04	KY-40	STP	CONSTRUCTION	$15,000,000	2003
MARTIN	12- 154.10	KY-40	STP	RIGHT OF WAY	$3,000,000	2001
MARTIN	12- 154.10	KY-40	STP	UTILITIES	$3,000,000	2003
MARTIN	12- 285.00	KY-40	SP	DESIGN	$250,000	2004
MARTIN	12- 1052.00	CR-9999	BRZ	CONSTRUCTION	$450,000	2002
MASON	09- 108.00	US-62	STP	CONSTRUCTION	$6,000,000	2002

MASON	09- 124.01	US-68	NH	RIGHT OF WAY	$4,000,000	2001
MASON	09- 124.01	US-68	NH	UTILITIES	$3,500,000	2001
MASON	09- 124.01	US-68	NH	CONSTRUCTION	$17,000,000	2002
MASON	09- 145.00	-	SP	CONSTRUCTION	$1,150,000	2001
MCCRACKEN	01- 115.10	US-60	SP	DESIGN	$400,000	2001
MCCRACKEN	01- 115.10	US-60	SP	RIGHT OF WAY	$1,250,000	2003
MCCRACKEN	01- 186.00	US-45	STP	CONSTRUCTION	$2,500,000	2004
MCCRACKEN	01- 260.00	US-62	STP	UTILITIES	$3,400,000	2001
MCCRACKEN	01- 260.00	US-62	STP	CONSTRUCTION	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	RIGHT OF WAY	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	UTILITIES	$2,000,000	2004
MCCRACKEN	01- 1115.00	US-60	BRO	RIGHT OF WAY	$5,000,000	2001
MCCRACKEN	01- 1115.00	US-60	BRO	UTILITIES	$3,000,000	2003
MCCRACKEN	01- 1124.00	KY-998	BRX	RIGHT OF WAY	$500,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	UTILITIES	$1,000,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	CONSTRUCTION	$2,000,000	2002
MCCREARY	08- 262.01	US-27	SP	CONSTRUCTION	$3,500,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	RIGHT OF WAY	$200,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	UTILITIES	$150,000	2001
MCLEAN	02- 9.00	US-431	STP	RIGHT OF WAY	$600,000	2002
MCLEAN	02- 9.00	US-431	STP	UTILITIES	$400,000	2004
MCLEAN	02- 1049.00	KY-136	BRO	RIGHT OF WAY	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	UTILITIES	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	CONSTRUCTION	$250,000	2004
MEADE	04- 53.00	KY-313	SP	DESIGN	$1,800,000	2001
MEADE	04- 53.01	KY-313	STP	RIGHT OF WAY	$6,500,000	2003
MEADE	04- 2006.00	US-31W	SP	DESIGN	$30,000	2001
MEADE	04- 2006.00	US-31W	SP	CONSTRUCTION	$1,200,000	2003
MEADE	04- 5001.00	KY-230	SP	CONSTRUCTION	$325,000	2002
MENIFEE	10- 117.01	US-460	STP	RIGHT OF WAY	$2,000,000	2002
MENIFEE	10- 117.01	US-460	STP	UTILITIES	$1,500,000	2004
MENIFEE	10- 1054.00	KY-713	BRX	RIGHT OF WAY	$600,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	UTILITIES	$75,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	CONSTRUCTION	$360,000	2002
MENIFEE	10- 5008.00	KY-1274	SP	DESIGN	$100,000	2004
MERCER	07- 1075.00	KY-152	BRO	RIGHT OF WAY	$150,000	2001
MERCER	07- 1075.00	KY-152	BRO	UTILITIES	$75,000	2001
MERCER	07- 1089.00	KY-1988	BRX	RIGHT OF WAY	$50,000	2002
MERCER	07- 1089.00	KY-1988	BRX	UTILITIES	$30,000	2003
MERCER	07- 1089.00	KY-1988	BRX	CONSTRUCTION	$150,000	2004
METCALFE	03- 1050.00	KY-640	BRX	CONSTRUCTION	$350,000	2002
MONROE	03- 276.01	KY-163	SP	DESIGN	$800,000	2001
MONROE	03- 276.01	KY-163	STP	RIGHT OF WAY	$2,500,000	2003
MONROE	03- 7020.00	-	SP	RIGHT OF WAY	$1,500,000	2001
MONROE	03- 7020.00	-	SP	UTILITIES	$500,000	2002
MONTGOMERY	07- 83.00	US-60	STP	CONSTRUCTION	$600,000	2001
MONTGOMERY	07- 124.00	US-460	SP	RIGHT OF WAY	$500,000	2003

MONTGOMERY	07- 124.00	US-460	SP	UTILITIES	$300,000	2003
MONTGOMERY	07- 317.00	KY-11	SP	RIGHT OF WAY	$2,000,000	2002
MONTGOMERY	07- 317.00	KY-11	SP	UTILITIES	$1,500,000	2002
MONTGOMERY	07- 1079.00	KY-599	BRX	CONSTRUCTION	$350,000	2002
MONTGOMERY	07- 2000.00	I-64	IM	DESIGN	$250,000	2001
MONTGOMERY	07- 2000.00	I-64	IM	CONSTRUCTION	$10,000,000	2001
MONTGOMERY	07- 2000.01	I-64	IM	CONSTRUCTION	$7,000,000	2002
MORGAN	10- 130.00	US-460	SP	RIGHT OF WAY	$650,000	2002
MORGAN	10- 130.00	US-460	SP	UTILITIES	$120,000	2004
MORGAN	10- 291.00	KY-7	SP	CONSTRUCTION	$7,000,000	2001
MORGAN	10- 1037.00	US-460	BRO	CONSTRUCTION	$425,000	2002
MORGAN	10- 7000.00	KY-519	SP	RIGHT OF WAY	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	UTILITIES	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	CONSTRUCTION	$3,000,000	2004
MUHLENBERG	02- 313.00	KY-181	SP	DESIGN	$800,000	2002
MUHLENBERG	02- 1015.00	CR-1412	BRZ	CONSTRUCTION	$225,000	2001
MUHLENBERG	02- 2005.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2001
MUHLENBERG	02- 2006.00	WK-9001	SP	CONSTRUCTION	$3,500,000	2002
MUHLENBERG	02- 5006.00	US-431	SP	RIGHT OF WAY	$20,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	UTILITIES	$10,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	CONSTRUCTION	$120,000	2002
NELSON	04- 184.00	US-62	STP	RIGHT OF WAY	$1,000,000	2002
NELSON	04- 184.00	US-62	STP	UTILITIES	$400,000	2003
NELSON	04- 191.00	BG-9002	NH	CONSTRUCTION	$590,000	2002
NELSON	04- 285.00	US-31E	SP	RIGHT OF WAY	$750,000	2002
NELSON	04- 285.00	US-31E	SP	UTILITIES	$500,000	2002
NELSON	04- 287.00	US-31E	SP	UTILITIES	$1,950,000	2001
NELSON	04- 287.00	US-31E	SP	CONSTRUCTION	$23,000,000	2002
NELSON	04- 295.10	KY-245	SP	UTILITIES	$200,000	2001
NELSON	04- 295.10	KY-245	SP	CONSTRUCTION	$1,000,000	2002
NELSON	04- 311.00	US-31E	STP	CONSTRUCTION	$3,000,000	2002
NELSON	04- 1049.00	KY-509	BRX	CONSTRUCTION	$400,000	2003
NELSON	04- 2004.00	BG-9002	NH	DESIGN	$60,000	2002
NELSON	04- 2004.00	BG-9002	NH	CONSTRUCTION	$5,250,000	2002
OHIO	02- 5003.00	WN-9007	SP	CONSTRUCTION	$82,300	2002
OLDHAM	05- 230.00	KY-393	STP	CONSTRUCTION	$4,000,000	2001
OLDHAM	05- 230.01	KY-393	STP	CONSTRUCTION	$6,300,000	2002
OLDHAM	05- 304.01	KY-22	STP	RIGHT OF WAY	$3,300,000	2001
OLDHAM	05- 304.01	KY-22	STP	UTILITIES	$1,600,000	2002
OLDHAM	05- 367.00	-	STP	UTILITIES	$3,000,000	2003
OLDHAM	05- 5005.00	KY-1793	SP	DESIGN	$75,000	2002
OWSLEY	10- 279.50	KY-30	SP	DESIGN	$500,000	2001
OWSLEY	10- 1034.00	KY-30	BRO	CONSTRUCTION	$2,800,000	2001
OWSLEY	10- 5003.00	KY-847	SP	CONSTRUCTION	$265,600	2001
OWSLEY	10- 5004.00	KY-28	SP	DESIGN	$180,000	2001
OWSLEY	10- 5004.00	KY-28	SP	RIGHT OF WAY	$25,000	2002
OWSLEY	10- 5004.00	KY-28	SP	CONSTRUCTION	$1,500,000	2003

PENDLETON	06- 276.00	US-27	STP	CONSTRUCTION	$4,500,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	RIGHT OF WAY	$160,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	UTILITIES	$100,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	CONSTRUCTION	$1,000,000	2002
PERRY	10- 114.00	KY-7	STP	RIGHT OF WAY	$1,000,000	2001
PERRY	10- 114.00	KY-7	STP	UTILITIES	$750,000	2002
PERRY	10- 114.00	KY-7	STP	CONSTRUCTION	$13,100,000	2003
PERRY	10- 114.02	KY-7	STP	CONSTRUCTION	$6,000,000	2004
PERRY	10- 122.00	DB-9006	SP	DESIGN	$500,000	2003
PERRY	10- 269.01	KY-15	STP	CONSTRUCTION	$11,500,000	2002
PERRY	10- 269.02	KY-15	NH	CONSTRUCTION	$17,000,000	2001
PERRY	10- 1021.00	-	BRZ	RIGHT OF WAY	$696,000	2002
PERRY	10- 1021.00	-	BRZ	UTILITIES	$250,000	2002
PERRY	10- 5000.00	KY-476	SP	CONSTRUCTION	$307,600	2001
PERRY	10- 5002.00	KY-476	SP	CONSTRUCTION	$63,400	2001
PERRY	10- 5005.00	KY-7	SP	RIGHT OF WAY	$50,000	2001
PERRY	10- 5005.00	KY-7	SP	CONSTRUCTION	$1,750,000	2003
PERRY	10- 5006.00	KY-80	SP	DESIGN	$210,000	2002
PERRY	10- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
PERRY	10- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
PIKE	12- 131.00	US-23	NH	DESIGN	$400,000	2001
PIKE	12- 131.00	US-23	NH	RIGHT OF WAY	$1,000,000	2003
PIKE	12- 131.00	US-23	NH	UTILITIES	$1,000,000	2004
PIKE	12- 131.01	US-23	NH	DESIGN	$400,000	2002
PIKE	12- 263.10	US-460	SP	CONSTRUCTION	$13,500,000	2002
PIKE	12- 263.11	US-460	SP	CONSTRUCTION	$10,000,000	2003
PIKE	12- 263.15	US-460	SP	RIGHT OF WAY	$4,000,000	2001
PIKE	12- 263.15	US-460	APD	UTILITIES	$2,000,000	2003
PIKE	12- 263.22	US-460	APD	DESIGN	$1,000,000	2001
PIKE	12- 263.22	US-460	APD	RIGHT OF WAY	$5,000,000	2003
PIKE	12- 263.24	US-460	APD	DESIGN	$1,000,000	2003
PIKE	12- 264.21	US-119	NH	CONSTRUCTION	$11,000,000	2002
PIKE	12- 264.22	US-119	NH	CONSTRUCTION	$4,000,000	2003
PIKE	12- 281.00	KY-194	SP	DESIGN	$200,000	2003
PIKE	12- 298.00	KY-199	SP	RIGHT OF WAY	$2,500,000	2002
PIKE	12- 298.00	KY-199	SP	UTILITIES	$300,000	2002
PIKE	12- 308.12	US-119	NH	CONSTRUCTION	$11,000,000	2001
PIKE	12- 308.21	US-119	APD	CONSTRUCTION	$11,000,000	2002
PIKE	12- 308.30	US-119	APD	CONSTRUCTION	$7,000,000	2001
PIKE	12- 308.31	US-119	APD	CONSTRUCTION	$13,000,000	2002
PIKE	12- 308.32	US-119	APD	CONSTRUCTION	$14,000,000	2003
PIKE	12- 308.33	US-119	STP	CONSTRUCTION	$20,000,000	2004
PIKE	12- 308.40	US-119	APD	CONSTRUCTION	$20,000,000	2004
PIKE	12- 1037.00	KY-1499	BRO	CONSTRUCTION	$700,000	2003
PIKE	12- 1042.00	KY-2061	BRX	CONSTRUCTION	$425,000	2002
PIKE	12- 1043.00	KY-3419	BRX	CONSTRUCTION	$350,000	2002
PIKE	12- 1050.00	CR-1559	BRZ	CONSTRUCTION	$300,000	2001

PIKE	12- 1051.00	CR-5116	BRZ	RIGHT OF WAY	$50,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	UTILITIES	$100,000	2001
PIKE	12- 1057.00	KY-292	BRO	RIGHT OF WAY	$200,000	2002
PIKE	12- 1057.00	KY-292	BRO	UTILITIES	$300,000	2002
PIKE	12- 1057.00	KY-292	BRO	CONSTRUCTION	$1,400,000	2004
PIKE	12- 1062.00	KY-199	BRX	CONSTRUCTION	$375,000	2002
PIKE	12- 5005.00	US-23	SP	DESIGN	$250,000	2001
PIKE	12- 5005.00	US-23	SP	RIGHT OF WAY	$80,000	2002
PIKE	12- 5005.00	US-23	SP	CONSTRUCTION	$2,500,000	2003
PIKE	12- 5010.00	KY-1426	SP	DESIGN	$300,000	2001
POWELL	10- 118.01	KY-213	STP	UTILITIES	$750,000	2001
POWELL	10- 118.01	KY-213	STP	CONSTRUCTION	$1,720,000	2002
POWELL	10- 1055.00	KY-1639	BRX	CONSTRUCTION	$363,000	2002
PULASKI	08- 55.10	US-27	NH	UTILITIES	$3,000,000	2001
PULASKI	08- 55.10	US-27	NH	CONSTRUCTION	$10,000,000	2002
PULASKI	08- 55.11	US-27	NH	CONSTRUCTION	$10,000,000	2003
PULASKI	08- 138.03	US-27	BRO	CONSTRUCTION	$9,000,000	2001
PULASKI	08- 259.01	-	STP	RIGHT OF WAY	$5,500,000	2001
PULASKI	08- 259.01	-	STP	UTILITIES	$2,500,000	2003
PULASKI	08- 268.01	-	SP	CONSTRUCTION	$2,500,000	2001
PULASKI	08- 270.00	KY-1247	SP	RIGHT OF WAY	$3,750,000	2002
PULASKI	08- 270.00	KY-1247	SP	UTILITIES	$970,000	2004
PULASKI	08- 1009.01	KY-90	BRO	CONSTRUCTION	$5,000,000	2001
PULASKI	08- 1009.02	KY-90	BRO	CONSTRUCTION	$12,000,000	2002
PULASKI	08- 1009.03	KY-90	BRO	CONSTRUCTION	$13,000,000	2003
PULASKI	08- 5003.00	US-27	SP	DESIGN	$70,000	2001
PULASKI	08- 5003.00	US-27	SP	RIGHT OF WAY	$200,000	2002
PULASKI	08- 5003.00	US-27	SP	UTILITIES	$75,000	2002
PULASKI	08- 5003.00	US-27	SP	CONSTRUCTION	$1,600,000	2003
PULASKI	08- 5004.00	CU-9008	SP	DESIGN	$50,000	2001
PULASKI	08- 5004.00	CU-9008	SP	RIGHT OF WAY	$20,000	2002
PULASKI	08- 5004.00	CU-9008	SP	CONSTRUCTION	$2,350,000	2004
ROBERTSON	06- 121.00	KY-165	SP	RIGHT OF WAY	$500,000	2001
ROBERTSON	06- 121.00	KY-165	SP	UTILITIES	$300,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	RIGHT OF WAY	$35,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	UTILITIES	$30,000	2001
ROCKCASTLE	08- 4.00	I-75	IM	CONSTRUCTION	$4,000,000	2002
ROCKCASTLE	08- 4.01	I-75	NH	CONSTRUCTION	$10,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	DESIGN	$1,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	RIGHT OF WAY	$3,000,000	2004
ROWAN	09- 142.00	KY-32	SP	CONSTRUCTION	$2,500,000	2001
ROWAN	09- 156.01	KY-519	STP	RIGHT OF WAY	$2,000,000	2001
ROWAN	09- 156.01	KY-519	STP	UTILITIES	$1,500,000	2002
ROWAN	09- 156.01	KY-519	STP	CONSTRUCTION	$12,500,000	2004
ROWAN	09- 300.00	I-64	STP	DESIGN	$280,000	2001
ROWAN	09- 300.00	I-64	STP	CONSTRUCTION	$7,000,000	2001
ROWAN	09- 301.00	-	STP	RIGHT OF WAY	$1,000,000	2001

ROWAN	09- 301.00	-	STP	UTILITIES	$1,000,000	2001
ROWAN	09- 301.00	-	STP	CONSTRUCTION	$4,400,000	2004
ROWAN	09- 1026.00	KY-32	BRO	CONSTRUCTION	$500,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	CONSTRUCTION	$1,000,000	2004
ROWAN	09- 5007.00	I-64	SP	DESIGN	$60,000	2004
ROWAN	09- 7010.00	-	SP	CONSTRUCTION	$1,100,000	2001
RUSSELL	08- 54.01	US-127	SP	DESIGN	$300,000	2001
RUSSELL	08- 54.01	US-127	STP	RIGHT OF WAY	$5,500,000	2003
RUSSELL	08- 5007.00	US-127	SP	DESIGN	$35,000	2004
SCOTT	06- 72.21	I-75	NH	UTILITIES	$500,000	2001
SCOTT	07- 86.00	US-460	STP	UTILITIES	$700,000	2001
SCOTT	07- 86.00	US-460	STP	CONSTRUCTION	$5,000,000	2002
SCOTT	07- 102.01	-	STP	RIGHT OF WAY	$6,000,000	2004
SCOTT	07- 209.20	-	SP	CONSTRUCTION	$3,675,000	2001
SCOTT	07- 212.00	US-460	SP	DESIGN	$300,000	2001
SCOTT	07- 212.00	US-460	STP	RIGHT OF WAY	$750,000	2003
SCOTT	07- 298.00	US-62	SP	UTILITIES	$750,000	2001
SCOTT	07- 298.00	US-62	STP	CONSTRUCTION	$9,000,000	2002
SCOTT	07- 1042.00	CR-1218	BRZ	CONSTRUCTION	$500,000	2001
SCOTT	07- 1076.00	KY-32	BRO	UTILITIES	$75,000	2001
SCOTT	07- 1076.00	KY-32	BRO	CONSTRUCTION	$200,000	2002
SCOTT	07- 5000.00	KY-620	SP	CONSTRUCTION	$342,000	2001
SHELBY	05- 172.00	KY-395	STP	RIGHT OF WAY	$4,000,000	2002
SHELBY	05- 172.00	KY-395	STP	UTILITIES	$800,000	2003
SHELBY	05- 326.01	-	SP	RIGHT OF WAY	$5,000,000	2002
SHELBY	05- 326.01	-	SP	UTILITIES	$2,000,000	2003
SHELBY	05- 326.01	-	SP	CONSTRUCTION	$18,000,000	2004
SHELBY	05- 1021.00	US-60	BRO	RIGHT OF WAY	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	UTILITIES	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	CONSTRUCTION	$200,000	2004
SHELBY	05- 2006.00	I-64	IM	DESIGN	$150,000	2002
SHELBY	05- 2011.00	KY-53	SP	CONSTRUCTION	$4,000,000	2001
SHELBY	05- 2012.00	US-60	SP	CONSTRUCTION	$100,000	2001
SIMPSON	03- 8.00	US-31W	STP	RIGHT OF WAY	$5,500,000	2001
SIMPSON	03- 8.00	US-31W	STP	UTILITIES	$2,500,000	2001
SIMPSON	03- 197.00	KY-100	SP	CONSTRUCTION	$1,000,000	2001
SIMPSON	03- 1052.00	KY-73	BRO	RIGHT OF WAY	$75,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	UTILITIES	$50,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	CONSTRUCTION	$300,000	2004
SPENCER	05- 307.00	KY-2450	SP	CONSTRUCTION	$2,500,000	2001
SPENCER	05- 347.00	KY-44	STP	DESIGN	$1,000,000	2003
SPENCER	05- 5001.00	KY-44	SP	CONSTRUCTION	$250,000	2002
SPENCER	05- 5006.00	KY-55	SP	DESIGN	$45,000	2003
TAYLOR	04- 114.00	KY-210	SP	DESIGN	$350,000	2004
TAYLOR	04- 1037.00	CR-1210	BRZ	CONSTRUCTION	$200,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	RIGHT OF WAY	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	UTILITIES	$50,000	2002

TAYLOR	04- 1053.00	KY-70	BRO	CONSTRUCTION	$500,000	2004
TAYLOR	04- 5000.00	US-68	SP	CONSTRUCTION	$550,000	2001
TODD	03- 2003.00	US-79	SP	CONSTRUCTION	$3,000,000	2002
TODD	03- 2004.00	KY-346	SP	CONSTRUCTION	$1,400,000	2001
TRIGG	01- 180.51	US-68	STP	RIGHT OF WAY	$4,900,000	2001
TRIGG	01- 180.51	US-68	STP	UTILITIES	$7,745,000	2002
TRIGG	01- 180.51	US-68	STP	CONSTRUCTION	$8,000,000	2004
TRIGG	01- 180.52	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.52	US-68	SP	UTILITIES	$1,250,000	2001
TRIGG	01- 180.52	US-68	SP	CONSTRUCTION	$14,000,000	2003
TRIGG	01- 180.53	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.53	US-68	SP	UTILITIES	$500,000	2001
TRIGG	01- 180.53	US-68	SP	CONSTRUCTION	$10,500,000	2003
TRIGG	01- 180.60	US-68	BRO	UTILITIES	$150,000	2001
TRIGG	01- 180.60	US-68	BRO	CONSTRUCTION	$8,000,000	2003
TRIGG	01- 180.61	US-68	STP	CONSTRUCTION	$11,000,000	2004
TRIGG	01- 1120.00	KY-139	BRO	RIGHT OF WAY	$250,000	2001
TRIGG	01- 1120.00	KY-139	BRO	UTILITIES	$260,000	2001
TRIGG	01- 1120.00	KY-139	BRO	CONSTRUCTION	$1,780,000	2003
TRIGG	01- 1131.00	KY-272	BRX	RIGHT OF WAY	$300,000	2002
TRIGG	01- 1131.00	KY-272	BRX	UTILITIES	$300,000	2002
TRIMBLE	05- 5003.00	US-42	SP	DESIGN	$65,000	2001
TRIMBLE	05- 5003.00	US-42	SP	CONSTRUCTION	$500,000	2002
UNION	02- 79.20	US-60	SP	DESIGN	$1,800,000	2004
UNION	02- 102.00	KY-56	STP	CONSTRUCTION	$2,500,000	2002
UNION	02- 122.01	US-60	STP	RIGHT OF WAY	$1,500,000	2001
UNION	02- 122.01	US-60	STP	UTILITIES	$1,000,000	2002
UNION	02- 122.01	US-60	STP	CONSTRUCTION	$15,000,000	2003
UNION	02- 123.01	US-60	STP	RIGHT OF WAY	$1,000,000	2001
UNION	02- 123.01	US-60	STP	UTILITIES	$750,000	2003
UNION	02- 123.01	US-60	STP	CONSTRUCTION	$10,500,000	2004
UNION	02- 294.01	US-60	STP	CONSTRUCTION	$4,750,000	2001
UNION	02- 1048.00	KY-948	BRX	CONSTRUCTION	$130,000	2002
UNION	02- 2023.00	KY-109	SP	CONSTRUCTION	$1,210,000	2001
WARREN	03- 5.00	I-65	IM	CONSTRUCTION	$12,000,000	2004
WARREN	03- 6.00	I-65	NH	CONSTRUCTION	$5,000,000	2004
WARREN	03- 6.01	I-65	IM	CONSTRUCTION	$4,000,000	2004
WARREN	03- 11.00	I-65	STP	CONSTRUCTION	$15,000,000	2004
WARREN	03- 11.01	I-65	SP	CONSTRUCTION	$14,000,000	2004
WARREN	03- 53.00	-	NH	CONSTRUCTION	$7,000,000	2002
WARREN	03- 53.01	-	NH	CONSTRUCTION	$10,000,000	2003
WARREN	03- 146.31	US-231	STP	CONSTRUCTION	$5,000,000	2001
WARREN	03- 252.10	KY-234	STP	CONSTRUCTION	$6,000,000	2001
WARREN	03- 290.01	KY-880	SP	RIGHT OF WAY	$4,500,000	2001
WARREN	03- 290.01	KY-880	SP	UTILITIES	$2,500,000	2003
WARREN	03- 310.00	-	SP	UTILITIES	$750,000	2002
WARREN	03- 310.00	-	SP	CONSTRUCTION	$3,200,000	2004

WARREN	03- 312.00	US-31W	STP	RIGHT OF WAY	$2,500,000	2001
WARREN	03- 312.00	US-31W	STP	UTILITIES	$2,000,000	2003
WARREN	03- 316.00	KY-2158	SP	RIGHT OF WAY	$2,000,000	2001
WARREN	03- 316.00	KY-2158	SP	UTILITIES	$2,500,000	2003
WARREN	03- 317.00	US-31W	STP	DESIGN	$500,000	2003
WASHINGTON	04- 103.05	US-150	STP	CONSTRUCTION	$4,200,000	2001
WASHINGTON	04- 284.01	KY-555	STP	UTILITIES	$1,000,000	2001
WASHINGTON	04- 284.01	KY-555	STP	CONSTRUCTION	$19,600,000	2003
WASHINGTON	04- 307.00	US-150	STP	DESIGN	$500,000	2001
WASHINGTON	04- 307.00	US-150	STP	RIGHT OF WAY	$2,000,000	2003
WEBSTER	02- 128.00	US-41A	SP	DESIGN	$250,000	2003
WEBSTER	02- 5007.00	PE-9004	SP	CONSTRUCTION	$650,000	2001
WHITLEY	11- 14.00	I-75	NH	DESIGN	$3,000,000	2001
WHITLEY	11- 14.01	I-75	IM	DESIGN	$3,000,000	2001
WHITLEY	11- 120.00	US-25W	SP	UTILITIES	$450,000	2001
WHITLEY	11- 120.00	US-25W	SP	CONSTRUCTION	$4,000,000	2002
WHITLEY	08- 261.10	KY-92	SP	RIGHT OF WAY	$3,000,000	2001
WHITLEY	08- 261.10	KY-92	SP	UTILITIES	$2,000,000	2003
WHITLEY	11- 1042.00	KY-628	BRX	UTILITIES	$25,000	2001
WHITLEY	11- 1042.00	KY-628	BRX	CONSTRUCTION	$300,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	RIGHT OF WAY	$40,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	UTILITIES	$60,000	2002
WHITLEY	11- 5001.00	US-25W	SP	CONSTRUCTION	$125,000	2002
WHITLEY	11- 5002.00	US-25W	SP	RIGHT OF WAY	$30,000	2001
WHITLEY	11- 5002.00	US-25W	SP	UTILITIES	$20,000	2001
WHITLEY	11- 5002.00	US-25W	SP	CONSTRUCTION	$1,500,000	2002
WHITLEY	11- 5007.00	US-25W	SP	DESIGN	$50,000	2004
WOLFE	10- 11.00	KY-15	SP	DESIGN	$2,000,000	2003
WOLFE	10- 126.10	KY-9009	SP	DESIGN	$600,000	2001
WOLFE	10- 126.10	KY-9009	NH	RIGHT OF WAY	$2,000,000	2003
WOLFE	10- 126.20	KY-9009	SP	DESIGN	$600,000	2003
WOODFORD	07- 347.00	-	SP	CONSTRUCTION	$7,948,000	2001
WOODFORD	07- 5005.00	KY-1964	SP	DESIGN	$80,000	2002
WOODFORD	07- 5005.00	KY-1964	SP	CONSTRUCTION	$750,000	2003
ZVARIOUS	99- 24.00	I-64	IM	CONSTRUCTION	$3,500,000	2002
ZVARIOUS	99- 41.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
ZVARIOUS	99- 42.00	-	IM	CONSTRUCTION	$3,500,000	2003
ZVARIOUS	99- 86.05	-	SP	CONSTRUCTION	$35,000,000	2001
ZVARIOUS	99- 86.06	-	SP	CONSTRUCTION	$35,000,000	2002
ZVARIOUS	99- 86.07	-	SP	CONSTRUCTION	$35,000,000	2003
ZVARIOUS	99- 86.08	-	SP	CONSTRUCTION	$35,000,000	2004
ZVARIOUS	99- 121.00	-	NH	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 124.00	-	BRZ	CONSTRUCTION	$875,000	2001
ZVARIOUS	99- 195.03	-	TE	CONSTRUCTION	$12,700,000	2001
ZVARIOUS	99- 195.04	-	TE	CONSTRUCTION	$12,700,000	2002
ZVARIOUS	99- 195.05	-	TE	CONSTRUCTION	$12,700,000	2003
ZVARIOUS	99- 195.06	-	TE	CONSTRUCTION	$12,700,000	2004

ZVARIOUS	99- 206.10	-	SAF	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 206.20	-	SAF	CONSTRUCTION	$5,000,000	2002
ZVARIOUS	99- 207.00	-	NH	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 208.00	-	NH	CONSTRUCTION	$1,000,000	2004
ZVARIOUS	99- 209.00	-	SP	CONSTRUCTION	$5,000,000	2003
ZVARIOUS	99- 212.05	I-75	SP	CONSTRUCTION	$200,000	2001
ZVARIOUS	99- 212.06	I-75	SP	CONSTRUCTION	$200,000	2002
ZVARIOUS	99- 212.07	I-75	SP	CONSTRUCTION	$200,000	2003
ZVARIOUS	99- 212.08	I-75	SP	CONSTRUCTION	$200,000	2004
ZVARIOUS	99- 219.01	-	CM	CONSTRUCTION	$4,200,000	2001
ZVARIOUS	99- 219.02	-	CM	CONSTRUCTION	$6,200,000	2002
ZVARIOUS	99- 219.03	-	CM	CONSTRUCTION	$4,300,000	2003
ZVARIOUS	99- 219.04	-	CM	CONSTRUCTION	$4,400,000	2004
ZVARIOUS	99- 228.00	-	BRZ	CONSTRUCTION	$875,000	2002
ZVARIOUS	99- 233.00	-	BRO	CONSTRUCTION	$550,000	2001
ZVARIOUS	99- 234.00	-	BRO	CONSTRUCTION	$775,000	2002
ZVARIOUS	99- 235.40	-	SP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 235.50	-	SP	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 235.60	-	SP	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 235.70	-	SP	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 242.00	-	STP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 243.00	-	STP	CONSTRUCTION	$750,000	2002
ZVARIOUS	99- 243.01	-	STP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 243.02	-	STP	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 246.00	-	NH	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 252.00	-	SP	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 253.00	-	SP	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 253.01	-	SP	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 253.02	-	SP	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 258.00	-	SP	CONSTRUCTION	$500,000	2001
ZVARIOUS	99- 259.01	-	SP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 268.00	-	BRO	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 269.00	-	BRO	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 275.00	-	SAF	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 276.00	-	SAF	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 277.00	-	SP	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 278.00	-	SP	CONSTRUCTION	$9,000,000	2002
ZVARIOUS	99- 278.10	-	SP	CONSTRUCTION	$5,000,000	2004
ZVARIOUS	99- 282.00	-	SP	DESIGN	$500,000	2001
ZVARIOUS	99- 283.00	-	SP	DESIGN	$500,000	2002
ZVARIOUS	99- 287.00	-	SP	DESIGN	$300,000	2001
ZVARIOUS	99- 288.00	-	SP	DESIGN	$300,000	2002
ZVARIOUS	99- 290.00	-	STP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 300.00	-	IM	CONSTRUCTION	$4,000,000	2001
ZVARIOUS	99- 301.00	-	IM	CONSTRUCTION	$18,000,000	2002
ZVARIOUS	99- 302.01	-	STP	DESIGN	$100,000	2001
ZVARIOUS	99- 302.01	-	STP	CONSTRUCTION	$1,000,000	2002

ZVARIOUS	99- 302.02	-	STP	DESIGN	$50,000	2003
ZVARIOUS	99- 302.02	-	STP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 319.00	-	SP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 320.00	-	SP	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 324.00	-	BRO	CONSTRUCTION	$550,000	2003
ZVARIOUS	99- 325.00	-	BRO	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 326.00	-	BRO	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 327.00	-	BRO	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 330.00	-	FH	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 331.00	-	FH	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 332.00	-	FH	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 333.00	-	FH	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 334.00	-	SP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 335.00	-	SP	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 336.00	-	IM	CONSTRUCTION	$9,000,000	2003
ZVARIOUS	99- 337.00	-	IM	CONSTRUCTION	$15,000,000	2004
ZVARIOUS	99- 338.00	-	SP	DESIGN	$500,000	2003
ZVARIOUS	99- 339.00	-	SP	DESIGN	$500,000	2004
ZVARIOUS	99- 340.00	-	SP	DESIGN	$300,000	2003
ZVARIOUS	99- 341.00	-	SP	DESIGN	$300,000	2004
ZVARIOUS	99- 342.00	-	BRO	DESIGN	$1,000,000	2002
ZVARIOUS	99- 343.00	-	BRO	DESIGN	$1,200,000	2003
ZVARIOUS	99- 344.00	-	BRO	DESIGN	$2,000,000	2004
ZVARIOUS	99- 345.00	-	BRZ	CONSTRUCTION	$875,000	2003
ZVARIOUS	99- 346.00	-	BRZ	CONSTRUCTION	$875,000	2004
ZVARIOUS	99- 347.00	-	BRZ	DESIGN	$400,000	2002
ZVARIOUS	99- 348.00	-	BRZ	DESIGN	$500,000	2003
ZVARIOUS	99- 349.00	-	BRZ	DESIGN	$500,000	2004
ZVARIOUS	99- 350.00	-	NH	DESIGN	$2,000,000	2003
ZVARIOUS	99- 351.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 352.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 353.00	-	SAF	CONSTRUCTION	$7,000,000	2003
ZVARIOUS	99- 354.00	-	SAF	CONSTRUCTION	$7,000,000	2004
ZVARIOUS	99- 355.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 356.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 357.02	-	SP	DESIGN	$200,000	2001
ZVARIOUS	99- 357.03	-	SP	DESIGN	$200,000	2002
ZVARIOUS	99- 357.04	-	SP	DESIGN	$200,000	2003
ZVARIOUS	99- 357.05	-	SP	DESIGN	$200,000	2004
ZVARIOUS	99- 360.00	-	BRO	DESIGN	$1,500,000	2001
ZVARIOUS	99- 1051.00	-	SP	CONSTRUCTION	$450,000	2001
ZVARIOUS	99- 1052.00	-	SP	CONSTRUCTION	$450,000	2002
ZVARIOUS	99- 1060.00	-	BRX	CONSTRUCTION	$250,000	2001
ZVARIOUS	99- 1061.00	-	BRX	CONSTRUCTION	$250,000	2002
ZVARIOUS	99- 1062.00	-	BRX	CONSTRUCTION	$250,000	2003
ZVARIOUS	99- 1063.00	-	BRX	CONSTRUCTION	$250,000	2004
ZVARIOUS	99- 1064.00	-	SP	CONSTRUCTION	$450,000	2003

ZVARIOUS	99- 1065.00	-	SP	CONSTRUCTION	$450,000	2004
ZVARIOUS	99- 1066.00	-	BRX	DESIGN	$500,000	2003
ZVARIOUS	99- 1067.00	-	BRX	DESIGN	$1,000,000	2004
ZVARIOUS	99- 1068.00	-	BRX	CONSTRUCTION	$4,000,000	2004
ZVARIOUS	99- 1069.00	-	BRZ	CONSTRUCTION	$3,700,000	2004
ZVARIOUS	99- 5002.00	-	SP	CONSTRUCTION	$1,000,000	2001
ZVARIOUS	99- 5003.00	-	SP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 5004.00	-	SP	CONSTRUCTION	$1,000,000	2003
ZVARIOUS	99- 5006.00	-	SP	CONSTRUCTION	$1,000,000	2004

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HJR 92** is as follows:

On page 28, lines 26 and 27, delete lines 26 and 27 in their entirety; and

On page 29, line 1, delete line 1 in its entirety; and

On page 33, between lines 26 and 27, insert the following:

ROWAN	09- 7030.00	KY-519	SP	RIGHT OF WAY	$100,000	2002
ROWAN	09- 7030.00	KY-519	SP	UTILITIES	$100,000	2002
ROWAN	09- 7030.00	KY-519	SP	CONSTRUCTION	$3,000,000	2004

Representative Worthington moved that the House refuse to concur in Senate Committee Substitute to **HJR 92**. Agreed. Representative Worthington moved that the House refuse to concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HJR 92**. Agreed.

A Conference Committee Report was filed on **SB 21**.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Stumbo moved the adoption of the following **Legislative Citation No. 251**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Martin Brooks Stumbo upon the occasion of his 18th Birthday This exceptional young man will graduate this year from Prestonsburg High School where he was a talented football player and student. This entire membership is indeed pleased to join with Martin's proud father, Representative Gregory D. Stumbo, in extending its very best birthday greetings to this phenomenal young citizen and in wishing him the very best of luck as he goes on attend Centre College in this fall. **Legislative Citation No. 251** was adopted without objection.

Representative Stumbo moved that the Conference Committee Report on **SB 21** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 21**.

Representative Hoover moved the adoption of the following **Legislative Citation No. 244**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers most sincere congratulations to the Bank of Clinton County celebrating twenty-five years of extraordinary service to the citizens of Clinton, Cumberland, Wayne and Pulaski Counties, and the surrounding Tennessee area. Opening its doors on April 2, 1973, this outstanding institution has made great strides progressing from its meager beginnings in a trailer with three loyal employees and one ambitious president to the distinguished institution that it is today. The Bank of Clinton County currently boasts seventeen staff members, including President and CEO, Kathy Eads. Inasmuch as the success of this highly-regarded bank has been the result of the dedication and integrity of its employees and the well-deserved loyalty of its customers, the members of this distinguished body are pleased to join with Representative Jeffrey Hoover in applauding the success of the Bank of Clinton County and in extending best wishes for many future years of prosperity. **Legislative Citation No. 244** was adopted without objection.

Representative Anderson moved the adoption of the following **Legislative Citation No. 252**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to Pete Nicholls for the immense and valuable service he has rendered the citizens of this fine Commonwealth. A leader in the Boy Scouts of America organization, Pete Nicholls has served his community and state with great honor and distinction both by his community activities and by his participation in the Kentucky General Assembly. This distinguished gentleman served in the Kentucky House of Representatives in 1962 from the old House District 72 and again in 1964 for House District 76. The members of this prestigious body are pleased to join Representative Hoby Anderson in applauding the stellar career of Pete Nicholls and in extending to him best wishes for his continued happiness and success. **Legislative Citation No. 252** was adopted without objection.

Representative Yonts moved that the rules be suspended to act upon a Resolution. Agreed. Representative Yonts moved the adoption of the following **HR 156**:

A RESOLUTION adjourning the House of Representatives in honor of the National Thumb Pickers Hall of Fame in Muhlenberg County, Kentucky, upon the occasion of its first induction ceremony on April 11, 1998.

WHEREAS, thumb picking is the art of picking a guitar in this manner: the bass strings or upper three strings are alternately picked with the thumb to set the rhythm for the music, while the forefinger of the same hand, and often more than one finger, picks the melody on the lower three or treble strings. Notes picked together in this unique method give the rolling sound of more than one guitar while only one is being played, and it is the most remarkable style of music in the world today, and one of the most difficult to master; and

WHEREAS, the earliest known and documented forms of thumb picking were in Muhlenberg County before the turn of the last century, and the earliest person to have been documented to have picked in this style was Alice DeArmond Jones of Dunmor in Muhlenberg County. She passed this style on to her son, Kennedy Jones, who, in using his bare thumb to pick the guitar, wore a blister and because of this turned to a thumb pick, which had before been used only for Hawaiian guitars. He was the first person documented to have used a thumb pick in this style of music; and

WHEREAS, the National Thumb Pickers Hall of Fame was organized to honor past, present and future thumb pickers, their supporting musicians and supporting individuals who have aided in the perpetuation and preservation of this unique style of American music; it also promotes, perpetuates and preserves all thumb picking efforts, including the promotion of various thumb picking programs and projects; and

WHEREAS, the charter inductees into the Thumb Pickers Hall of Fame will be in the following categories: Deceased Thumb Pickers - Grandpa Jones, Ike Everly, Kennedy Jones, Mose Rager, Arnold Shultz and Merle Travis; Living Musicians - Chet Atkins; Supporting Musicians - Lightning Chance; and Non-Musician - Laverda Rager; and an induction ceremony honoring these charter inductees will be held at the Drakesboro School gymnasium in Muhlenberg County at 7:00 p.m. on April 11, 1998; and

WHEREAS, the National Thumb Pickers Hall of Fame will display a duplicate set of plaques for the honorees along with their photographs, and it will be temporarily based in the Muhlenberg County courthouse in Greenville, Kentucky, and then will be moved to the newly renovated Merle Travis birthplace home which is in Paradise Park in Muhlenberg County;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud and honored to recognize the Thumb Pickers Hall of Fame in Muhlenberg County, Kentucky, and we express our congratulations and best wishes upon the occasion of the first induction ceremony on April 11, 1998. The Thumb Pickers Hall of Fame has brought distinction to the citizens, young and old, of the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Thumb Pickers Hall of Fame.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Brent Yonts for presentation to the Thumb Pickers Hall of Fame.

There being no objection **HR 156** was adopted.

Representative Riggs moved the adoption of the following **Legislative Citation No. 242**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Nathan Staff for impressive contributions and exemplary performance as a legislative intern to Representative Steven Riggs during the 1998 General Assembly. Inasmuch as the Kentucky House of Representatives renders enormous tasks during the legislative session, and further, that this distinguished intern has indeed acted as an integral element of support; let it be known that this honorable body hereby commends the exceptional work ethic and dedication exhibited by Nathan Staff and extend its deepest appreciation and gratitude for his outstanding contributions. **Legislative Citation No. 242** was adopted without objection.

Representative Riggs moved the adoption of the following **Legislative Citation No. 243**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Todd Yates for exemplary performance and impressive contributions as a legislative intern to Representative Steven Riggs during the 1998 General Assembly. Inasmuch as the Kentucky House of Representatives renders enormous tasks during the legislative session, and further, that this distinguished intern has indeed acted as an integral element of support; now therefore, let it be known that this honorable body doth hereby commend the exceptional dedication and work ethic of Todd Yates and extend its deepest appreciation and gratitude for his essential contribution. **Legislative Citation No. 243** was adopted without objection.

Representative Wayne moved the adoption of the following **Legislative Citation No. 234**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Kentucky Council of Churches as it celebrates its jubilee year, commemorating the fifty years of inter-church shared life and looking forward to a strong future of work in the Commonwealth of Kentucky on behalf of its member churches and as a witness for justice, peace and community among the citizens of Kentucky. Six denominations created the Council at the YMCA of Louisville in 1947. This council has held consistent concern for meeting the needs of children, youth and the poor. Recognized as one of the most vital state council of churches in the United States, it has provided a voice for the voiceless and for the churches through its vital advocacy work in Frankfort and Washington, D.C. Through its direct service agency, the Kentucky Interchurch Disaster Recovery Program, the Council has worked to help those who are victims of disasters within the Commonwealth. Their efforts during the devastating floods of March, 1997, were instrumental in rebuilding homes, barns, community buildings and lives. The Kentucky House of Representatives is pleased to join with Representative Jim Wayne in celebrating the existence and great deeds of the Kentucky Council of Churches and in extending deep appreciation for their humanitarian efforts. **Legislative Citation No. 234** was adopted without objection.

Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 245**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to Joe Nuxhall in honor of his exceptional thirty-two year career as radio announcer for the Cincinnati Reds Baseball Team. A former pitcher for the team and member of the Reds Hall of Fame, Joe Nuxhall was the youngest player ever to appear in the Major Leagues at the age of fifteen, a record which remains unbroken. After his stellar sixteen-year career as a player, this distinguished gentleman lent his phenomenal knowledge of the game to radio audiences, becoming the voice of this beloved Cincinnati team. The extraordinary enthusiasm and talent with which Joe Nuxhall has served his post is both laudable and worthy of note. The members of this prestigious body are pleased to join with Representative Richard Murgatroyd in applauding the well-deserved success of this Cincinnati treasure and in extending to him best wishes for many more years as the 'voice of the Cincinnati Reds.' **Legislative Citation No. 245** was adopted without objection.

Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 246**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Marty Brennaman upon the auspicious occasion of his twenty-fifth anniversary as the voice of the Cincinnati Reds on AM 700, WLW, the Reds Radio Network. A thirty-three year veteran of the broadcast business, Marty Brennaman made his announcing debut with the Reds in February 1974. Since that time, this exceptional radio personality has been named Sportscaster of the Year in Ohio eleven times and has been a four-time Virginia Sportscaster of the Year. Inasmuch as this distinguished gentleman has demonstrated an exemplary dedication to his profession and to the sport of baseball, the members of this august body are pleased to join with Representative Richard Murgatroyd in commending him on his stellar achievements and in wishing him the best of luck in all future endeavors. **Legislative Citation No. 246** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 247**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Esther Rupp. The House of Representatives joins Representative Ruth Ann Palumbo in expressing its deepest sympathy to all who share in the great loss on the passing of this very kind and very gentle woman, the widow of University of Kentucky Wildcat Basketball Coach Adolph Rupp; beloved mother of Adolph "Herky" Rupp Jr.; cherished grandmother of Adolph F. "Chip" Rupp III and Carlyle Farren Rupp; and great-grandmother of Adolph Rupp IV. Esther Rupp devoted her life to her family and exemplified loyalty, support and graciousness. She continued to follow UK basketball long after her husband retired in 1972. The members of the Kentucky House of Representatives are indeed honored to remember this remarkable woman and to express deepest condolences to this significant Kentucky family. **Legislative Citation No. 247** was adopted without objection.

Representative Reinhardt moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Reinhardt moved the adoption of the following **HR 148**:

A RESOLUTION adjourning the House of Representatives in loving memory of Rebecca Carloss Page Brooker.

WHEREAS, Rebecca Carloss Page Brooker, a native of Fayette County, Kentucky, and a resident of Florence, Kentucky, traversed these earthly bounds on March 12, 1998, at the age of fifty-nine years; and

WHEREAS, Rebecca Carloss Page Brooker was the daughter of Harry and Rebecca Carloss, and sister of James Carloss and Dr. Harry Carloss, Jr.; and

WHEREAS, Rebecca Carloss Page Brooker was the loving wife of Sheldon Brooker, the devoted mother of Thomas W. Page, Richard C. Page, David M. Page, Russell Brooker, Rebecca Anne Schnitzler, Lishell Borg, and Deidre R. Fanning, and the adored grandmother of eleven grandchildren; and

WHEREAS, Rebecca Carloss Page Brooker was the University of Kentucky's home economics extension agent in Campbell County from 1978 to 1989 and in Boone County from 1989 to 1998; and

WHEREAS, Rebecca Carloss Page Brooker was the recipient of seven National Association of Extension Home Economists awards; and

WHEREAS, Rebecca Carloss Page Brooker was one of the first extension agents appointed to the original University of Kentucky Water Quality Task Force in 1990 and helped coordinate the first Kentucky Water Awareness Month activities; and

WHEREAS, Rebecca Carloss Page Brooker was the president of the Kentucky Extension Association for Family and Consumer Sciences in 1997;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its most profound sense of sorrow upon the passing of Rebecca Carloss Page Brooker and extends to her family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Rebecca Carloss Page Brooker.

Section 3. That the Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mr. Richard C. Page, 2757 Baybrook Road, Lexington, Kentucky 40517.

There being no objection **HR 148** was adopted.

Representative Newsome moved the adoption of the following **Legislative Citation No. 220**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the students of Hindman Elementary School for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. These outstanding young scholars have endeavored to broaden their understanding of democracy and government and are commended for their efforts to do so. The members of the Kentucky House of Representatives are pleased to join with Representative Donnie Newsome in applauding the initiative of the students of Hindman Elementary School and in extending a welcoming hand to them as they join us to witness a day of the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 220** was adopted without objection.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 233**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Ann Shirley Brooks and expresses sincere appreciation to her for the outstanding job she has done for the House of Representatives during the 1998 Regular Session of the Kentucky General Assembly. A talented musician, Ann Shirley Brooks is a former Miss Kentucky and top-twelve finalist in the Miss America competition. This former state government and Senate employee has also worked with the Kentucky Bicentennial Commission. The mother of a son and grandmother of twin grandsons, this lovely woman of gentle character has earned the respect of all those who have had the pleasure of working with her. The members of the Kentucky House of Representatives are delighted to join with Representative Charles Hoffman in honoring her on this day and in thanking her for a job well done. **Legislative Citation No. 233** was adopted without objection.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 240**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Scott County Democratic Woman's Club upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. Inasmuch as the desire to become involved with the legislative process of the Commonwealth of Kentucky is a worthwhile pursuit, the members of this honorable body are pleased to join Representative Charles Hoffman in extending to these exemplary citizens a cordial welcome to the House Chambers and in wishing them success in all their endeavors. **Legislative Citation No. 240** was adopted without objection.

The following member filed a request to have his name added as co-sponsor of Bill under rules previously suspended: **HB 380**, Representative Crenshaw.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that he be recorded as voting "yea" on **SB 300**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crimm moved that he be recorded as voting "yea" on **HB 670**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "nay" on **HB 319**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that he be recorded as voting "nay" on **HB 319**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative McKee moved that his vote be changed from "yea" to "abstain" on **HB 532**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lindsay moved that he be recorded as voting "nay" on **SB 353**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Anderson moved that his vote be changed from "yea" to "nay" on **HB 608**. Agreed. Representative Anderson moved that he be recorded as voting "nay" on **HB 319**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Adams moved that he be recorded as voting "yea" on **HB 377** and **HB 280**. Agreed.

Representative Rader moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Rader moved that she be recorded as voting "yea" on **HB 318**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Vincent moved that he be recorded as voting "yea" on **HB 52, HB 187, HR 136, HR 144, SB 171, SB 197, SB 159, SB 364, SB 300, SB 168, SB 360, SB 357, SB 351, SB 145, SB 343, SB 392, SB 224, SB 128, SB 95, SB 395, SB 133, SB 242, SB 19,** and **SB 18**. Agreed. Representative Vincent moved that he be recorded as voting "nay" on **HB 319, SB 304,** and **SB 353**. Agreed. Representative Vincent moved that his vote be changed from "yea" to "nay" on **HB 565**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that he be recorded as voting "yea" on **HB 128, HB 285,** and **HB 229**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that he be recorded as voting "yea" on **HB 864**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cox moved that he be recorded as voting "nay" on **HB 319**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that he be recorded as voting "yea" on **HB 565**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that she be recorded as voting "yea" on **HB 318, HB 332, HB 423, HB 495, HB 511, HB 551, HB 582,** and **HB 583**. Agreed.

Representative A. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative A. Arnold moved that he be recorded as voting "yea" on **HB 377, HB 560, HB 282** and **HB 49**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Baugh moved that his vote be changed from "yea" to "nay" on **HB 565**. Agreed. Representative Baugh moved that he be recorded as voting "nay" on **HB 319**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 337, HB 282,** and **HB 418**. Agreed. Representative Hoffman moved that his vote be changed from "yea" to "nay " on **HB 258**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Ford moved that his vote be changed from "yea" to "nay" on **HB 565**. Agreed. Representative Ford moved that he be recorded as voting "yea" on **SB 18, SB 133, SB 353, SB 395, SB 128, SB 224, SB 343, SB 145, SB 351, SB 357, SB 360, SB 168, SB 300,** and **SB 364**. Agreed.

Announcements

The following meetings were announced:

A Conference Committee meeting on **HB 63** upon adjournment.

A Conference Committee meeting on the budget, Room 327, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., April 1, 1998.

On the roll call the vote was **Yeas 58**–J. Adams, R. Adams, Adkins, Alexander, Anderson, Ballard, Baugh, Bowling, Bratcher, D. Butler, D. D. Butler, Callahan, L. Clark, Coleman, Colter, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Johns, Jordan, Kerr, Lindsay, Lovell, Mason, Miller, Miniard, Murgatroyd, Napier, Newsome, Palumbo, Polston, Rasche, Ratliff, Reinhardt, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Weaver, Wilkey, Worthington, Zimmerman. **Nays 7**--Cave, Crall, Hoover, Nunn, Riggs, Stewart, Walton.

The motion to adjourn was adopted.

WEDNESDAY, APRIL 1, 1998

FIFTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Bruce Burklow, Victory Church, Madisonville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Horlander and Miniard.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 31, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed. Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

A Conference Committee Report was filed on **HB 63**. A Free Conference Committee Report was filed on **HB 48**. A Conference Committee Report was filed on **HB 320**.

Representative Ballard moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Ballard moved the adoption of the following **Legislative Citation No. 259**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to Reverend Bruce Burklow for the extraordinary compassion and faith with which he has pastored numerous churches in both Kentucky and Indiana. Rev. Burklow traveled extensively throughout his youth, appearing in over 100 churches a year for crusades, seminars and conventions. In 1980, he began an inter-denominational church in Mt. Vernon, Indiana, where he would be pastor for the next seven years, building the congregation to over 400. Traveling for the next five years, he later accepted the pastorate for Victory Church in Madisonville, Kentucky, where he has seen his congregation through two building programs and expanded the membership from 50 to over 700. Through his unique and innovative ministry, the congregation of Victory Church has crossed denominational and racial lines to create an environment where all feel welcome. The members of this august body are pleased to join with Representative Eddie Ballard in extending ardent sentiments of gratitude and esteem for the heartfelt invocation he offers this body on this day and in extending to him best wishes for continued success in the future. **Legislative Citation No. 259** was adopted without objection.

Representative D. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative D. Graham moved the adoption of the following **Legislative Citation No. 255**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the George Rogers Clark High School Varsity Cheerleading Squad for their remarkable performance at the State-at-Large Cheerleading Competition sponsored by the Kentucky Association of Pep Organization Sponsors. Whereas, the members of this exceptional squad captured the 1998 High School Cheerleading Championship; and whereas, they have enriched the winning tradition of the George Rogers Clark High School Varsity Cheerleading Squad which boasts four consecutive state championships as well as nine regional championships in the last ten years; and whereas, these outstanding athletes have demonstrated extraordinary effort, perseverance and hard work; therefore, the members of this honorable body are delighted to join with Representative Drew Graham in commending them for their well-deserved success and in welcoming them to the Chambers of the Kentucky House of Representatives. **Legislative Citation No. 255** was adopted without objection.

Representative Lovell moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Lovell moved the adoption of the following **Legislative Citation No. 253**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Nicholas County Band for superior performance in Class A state band competition. Under the leadership of Eric Hale, Band Director, these impressive young musicians have achieved numerous accomplishments over the past three years including champions of the 1996 and 1997 state competitions, first runners-up in the 1995 state competition as well as recipients of a top rating at the national competition held in Indianapolis in November 1997. Inasmuch as these talented students have demonstrated remarkable hard work and dedication, the entire membership of this honorable body is delighted to join with Representative Jim Lovell in commending them and in extending best wishes for their continued success. **Legislative Citation No. 253** was adopted without objection.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Long moved the adoption of the following **HR 154**:

HR 154, A RESOLUTION adjourning the House of Representatives in honor of the Legislative Research Commission Director, Don Cetrulo, and the entire legislative staff for their outstanding work in assuring the smooth operation of the 1998 General Assembly.

WHEREAS, the members of the LRC staff deserve recognition and honor for their tireless efforts in serving the needs of the General Assembly; and

WHEREAS, the LRC staff drafted, reviewed, processed, tracked, and printed almost 3000 bill requests, resulting in more than 600 Senate Bills and Resolutions, and over 1,000 House Bills and Resolutions, along with countless amendments, committee substitutes, and citations, and prepared related fiscal notes, local mandates, and corrections impact statements; and

WHEREAS, the LRC staff has shown outstanding dedication in assembling the information necessary for the General Assembly to develop the budgets for all three branches of state government, and assessing fiscal and economic impacts; and

WHEREAS, the LRC staff developed and maintained a highly sophisticated and reliable computer system in our chambers and throughout the agency that facilitated research, increased the efficiency of the members of the General Assembly, and extended communication to the Internet; and

WHEREAS, the LRC staff provided a vital link in promoting communication and service for Kentuckians and members of the General Assembly by responding to thousands of information requests; and

WHEREAS, the LRC staff worked tirelessly to produce and distribute daily information for the General Assembly, including the Legislative Record, in a timely and accurate manner; support legislative office needs, including receiving, distributing, and helping to respond to 100,000 messages from our constituents; transport materials by courier, provide security, order and supply food and coffee, undertake projects, distribute faxes, operate the switchboard, maintain communication links, provide supplies, and process business and personnel matters; and

WHEREAS, the LRC staff produced outstanding work at all times and at all levels, exemplifying an unmatched level of dedication and professionalism, and solidifying their widely recognized reputation as one of the very top legislative staffs in the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives salutes the outstanding staff of the Legislative Research Commission, for its dedication and its exemplary work, without which the 1998 General Assembly could not have succeeded.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the staff of the Legislative Research Commission.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Don Cetrulo, Director of the Legislative Research Commission, State Capitol, Room 300, Frankfort, KY 40601.

There being no objection **HR 154** was adopted.

Roll call to show co-sponsors of **HR 154**. (See April 1, 1998 roll call on **HR 154** - Appendix)

Representative Allen moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Allen moved the adoption of the following **Legislative Citation No. 256**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Representative Jon David Reinhardt upon his 55th Birthday. In celebration of this memorable event, the entire membership is delighted to join Representative Woody Allen in paying tribute to the Gentleman from District #69, who was fortunate enough to be born on April Fools' Day and who is, probably as a direct consequence, a very serious gentleman--well regarded by his colleagues for his wry sense of humor. Representative Reinhardt, along with his best friend and wife, Boots, have had the pleasure of rearing four extraordinary children, Jon David, Jr., Robin, Julie and Amy, and are the devoted grandparents of nine beautiful grandchildren. This distinguished body hereby extends best wishes to this devoted family man who has worked with absolute dedication to represent the best interest of his constituents in Boone, Campbell and Kenton Counties, as he, hopefully, tosses off his mantle of seriousness long enough to thoroughly enjoy celebrating his 55th birthday. **Legislative Citation No. 256** was adopted without objection.

Representative Crimm moved that the rules be suspended act upon a Legislative Citation. Agreed. Representative Crimm moved the adoption of the following **Legislative Citation No. 254**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the Crosby Middle School Quick Recall Team for advancing to compete in the National Academic League's National Championship Tournament. This team of outstanding young scholars, with the valuable guidance and support of Sponsors Katie Foley and Jeanne Anderson, has demonstrated commendable hard work and laudable dedication to academic excellence by participating in this worthy endeavor. The members of this distinguished body are pleased to join with Representative Ron Crimm in applauding the accomplishments of this outstanding team and in extending best wishes for continued academic victories. **Legislative Citation**

No. 254 was adopted without objection.

Representative A. Arnold moved that the Conference Committee Report on **HB 63** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the following members to serve on the Free Conference Committee on **HB 63**: Representative A. Arnold, Chair; Representatives Clarke, Curd, Maricle and Ford.

Representative Simpson moved that the Free Conference Committee Report on **HB 48** be adopted. Agreed. The Speaker announced that the House was not in possession of the Bill, therefore, the motion was out of order.

Representative Moberly moved that the Conference Committee Report on **HB 320** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the following members to serve on the Free Conference Committee on **HB 320**: Representative Moberly, Chair; Representatives Richards, Stumbo, Barrows, Callahan, Ford, Cave, Allen, and L. Clark.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 62, HB 377, HB 418, HB 550,** and **HB 670** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:57 a.m.) **HB 62, HB 377, HB 418, HB 550,** and **HB 670** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1998 at 11:07 a.m.

Orders of the Day

HB 53, with Senate Committee Substitute, Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 53** is as follows:

AN ACT relating to high school diplomas and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 5, 11, and 12 of this Act, unless the context requires otherwise:

(1) "Accountability index" means the statistic, as provided by subsection (2) of Section 12 of this Act, that combines a school's academic and nonacademic factors;

(2) "Core content for assessment" means the content identified for all students to know that is to be included on the state assessment; and

(3) "Nonacademic factors" means the statistic that describes school success on:

(a) Increasing attendance and decreasing retention rates at the elementary school level;

(b) Increasing attendance rates and decreasing retention and dropout rates at the middle school level; and

(c) Increasing attendance rates and decreasing retention and dropout rates and improving the transition to adult life at the secondary school level.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members, no more than five (5) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in Sections 11, 12, and 14 of this Act.

(3) The subcommittee shall meet at a time and place as the chair may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The review of administrative regulations promulgated by the Kentucky Board of Education under the authority granted by

Sections 11, 12, and 14 of this Act shall comply with the provisions of Section 4 of this Act and KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within forty-five (45) days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.

(4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

(6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.

(b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the Education Committee when it plans to consider an administrative regulation shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) The Department of Education shall comply with subsection (4) of this section.

(9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the subcommittee as provided in KRS 13A.030(2) and (3).

(10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A School Curriculum, Assessment, and Accountability Council is hereby created to study, review, and make recommendations concerning Kentucky's system of setting academic standards, assessing learning, holding schools accountable for learning, and assisting schools to improve their performance. The council shall advise the Kentucky Board of Education and the Legislative Research Commission on issues related to the development and communication of the academic expectations and core content for assessment, the development and implementation of the statewide assessment and accountability program, the distribution of rewards and imposition of sanctions, and assistance for schools to improve their performance under Sections 11, 12, 13, and 14 of this Act.

(2) The School Curriculum, Assessment, and Accountability Council shall be composed of fifteen (15) voting members appointed by the Governor. On making appointments to the council, the Governor shall assure broad geographical representation and representation of elementary, middle, and secondary school levels; assure equal representation of the two (2) sexes, inasmuch as possible; and assure that appointments reflect the minority racial composition of the Commonwealth. The members shall serve terms of two (2) years with no member serving more than two (2)

consecutive terms, except that seven (7) of the initial appointments shall be for four (4) year terms. The members shall be appointed as follows:

(a) Two (2) parents from recommendations submitted by organizations representing school councils and parents;

(b) Two (2) teachers from recommendations submitted by organizations representing teachers;

(c) Two (2) superintendents from recommendations submitted by organizations representing superintendents;

(d) Two (2) principals from organizations representing school administrators;

(e) Two (2) local school board members from recommendations submitted by organizations representing school boards;

(f) Two (2) school district assessment coordinators from recommendations submitted by organizations representing district assessment coordinators;

(g) Two (2) university professors with expertise in assessment and measurement; and

(h) One (1) at-large member.

(3) The School Curriculum, Assessment, and Accountability Council shall elect a chair annually from its membership.

(4) The members shall be remunerated for actual and necessary expenses incurred while attending meetings of the council or while serving as representative of the council.

(5) The School Curriculum, Assessment, and Accountability Council shall meet at least four (4) times each year at times and places as it determines by resolution.

(6) The School Curriculum, Assessment, and Accountability Council shall be attached to the Department of Education for administrative purposes. It shall be provided appropriate staff and resources to conduct its work.

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Legislative Research Commission shall appoint a National Technical Advisory Panel on Assessment and Accountability composed of no fewer than three (3) professionals with a variety of expertise in education testing and measurement. The panel shall advise the Commission, and, upon approval of the director of the Commission, the Kentucky Board of Education and the Department of Education, in the implementation of Sections 11 and 12 of this Act. The Commission is authorized to contract for the services and expenses of the panel members.

Section 7. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) *Except as provided by Sections 3 and 4 of this Act,* review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an administrative regulation:

1. Is wrongfully promulgated;
2. Appears to be in conflict with an existing statute;
3. Appears to have no statutory authority for its promulgation;
4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
5. Fails to use tiering when tiering is applicable;
6. Is in excess of the administrative body's authority; or
7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 8. KRS 13A.290 is amended to read as follows:

(1) ***Except as provided by Sections 3 and 4 of this Act,*** within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly-scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly-scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly-scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the matter is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) An administrative body shall comply with subsection (4) of this section.

(9) The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee as provided in KRS 13A.030(2) and (3).

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly-scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 9. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools ***identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and Section 11 of this Act and distributed to local school districts and schools. They shall include***[~~, subject to~~] the following[~~ conditions~~]:

1. a. Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year, except as provided in subparagraph 1.b. of this paragraph. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will

allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

b. A school council established pursuant to KRS 160.345 or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council or school shall revise the action plan to reflect any changes in the primary program's design.

2. The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation[~~. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements~~] in light of the expected outcomes for students and schools set forth in KRS 158.6451. ***Student scores from any assessment administered under Section 11 of this Act that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission***;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools shall not be subject to waiver.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 10. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) ***A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.***

(4) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 11. KRS 158.6453 is amended to read as follows:

(1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide[~~, primarily performance based~~] assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645 ***and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program***. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.[~~ The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.~~]

(2) ***The assessment program shall include the following components:***

(a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;

(b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;

(c) Writing portfolios consisting of samples of student work;

(d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and

(e) A technically sound longitudinal comparison of the assessment results for the same students.[~~Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:~~

~~(a) Direct the development of the interim and full-scale assessment program; and~~

~~(b) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.~~

~~The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no~~

~~pecuniary interest with the successful bidder.~~]

(3) ***Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:***

(a) Measure core academic content, basic skills, and higher-order skills that are grade appropriate identified by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

(b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and

(c) Minimize the time spent by teachers and students on assessment.

(4) Results from the state assessment under this section shall be reported to the school districts and schools no later than September 15 of the following school year.

(5) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include, but not be limited to, the relationship between the state assessment results and other indicators of improved academic achievement by students and evidence that a school's classification under the accountability system is accurate. The plan shall be submitted to the Commission by July 1 the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(6) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. ***The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.***

(7)[~~(4)~~] ***The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include, but not be limited to, the following components reported by race, gender, and disability when appropriate:***

(a) Student academic achievement, including the results from each of the assessments administered under this section;

(b) Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and

(c) School learning environment, including measures of parental involvement.[~~By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in Kentucky Board of Education administrative regulations.~~]

Section 12. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) ***After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability,*** the Kentucky Board of Education shall promulgate administrative regulations ***in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A*** to establish a system ***for identifying and rewarding***[~~of determining~~] successful schools***. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal.***[~~and dispensing appropriate rewards. The system shall be based on the following:~~

~~(a) A school shall be the unit of measure to determine success;~~

~~(b) School success shall be determined by measuring a school's improvement over a two (2) year period;~~

~~(c) A school shall be rewarded for an increased proportion of successful students, including those students who are at risk of school failure;~~

~~(d) A threshold level for school improvement shall be established by the board to determine the amount of success needed for a school to receive a reward. The threshold definition shall establish the percentage of increase required in a school's percentage of successful students as compared to a school's present proportion of successful students, with consideration given to the fact that a school closest to having one hundred percent (100%) successful students will have a lower percentage increase required;~~

~~(e) Rewards shall be given to the school on behalf of the full time, part time, and itinerant instructional staff of a school who generate the reward when the school achieves at least one percent (1%) gain over its threshold as defined in paragraph (d) of this subsection. Substitute teachers shall not be used in calculating the reward;~~

~~(f) Rewards shall be calculated by applying the percentage set by the General Assembly in the biennial budget to the current annual salary of each certified staff person employed in the school on the last working day of the year of the reward. The reward for part-time and itinerant staff shall be calculated for the proportion of time spent in the school. In determining the percentage to be applied to a school for calculation of the rewards for the school's staff, consideration shall be given to the fact that schools already having a high percentage of successful students shall have a lower requirement for a percentage increase in its number of successful students. The staff person's identity in connection to his share of the reward shall be maintained when his share of the reward is deposited to the school's account;~~

~~(g) The certified staff members shall by majority rule collectively decide on the ways the reward funds shall be spent. Each individual staff person shall use the amount he earned in accordance with the decisions made by the total staff. Rewards shall not be added to a staff person's base salary and shall not be defined as compensation for retirement purposes under KRS 161.220(10); and~~

~~(h) The Department of Education shall send the school's reward to the local district office for transmittal to the school.]~~

(2) ***After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability,*** the Kentucky Board of Education shall ***promulgate***~~[adopt]~~ by administrative regulation ***in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A*** the formula ***for a school accountability index***~~[to be used]~~ to ***classify***~~[determine successful]~~ schools ***every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline***. The formula shall~~[be a calculus of factors which]~~ reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) ***After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:***

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under Section 13 of this Act;

(d) Education assistance from highly skilled certified staff under Section 14 of this Act;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.~~[A school that does not reach its threshold level as defined in paragraph (d) of subsection (1) of this section but maintains the previous proportion of successful students shall be required to develop a school improvement plan and shall be eligible to receive funds from the school improvement fund pursuant to KRS 158.805. A school that does not reach its threshold level but maintains the previous proportion of successful students after the second biennial review shall be required to meet the provisions of subsection (4) of this section.]~~

(4) ***(a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:***

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under Section 14 of this Act, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students;

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of Sections 3 and 4 of this Act and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under Section 13 of this Act.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, ~~[A school in which the proportion of successful students declines by less than five percent (5%) shall be required to develop a school improvement plan, shall be eligible to receive funds from the school improvement fund, and shall have one (1) or more Kentucky distinguished educators assigned to the school to carry out the duties as described in KRS 158.782. If the school does not meet its original threshold after the next biennial review or after the 1996-98 biennial review, whichever is later, the school shall be subject to the requirements of subsection (5) of this section.~~

~~(5) A school in which the proportion of successful students declines by five percent (5%) or more in any biennium beginning with the 1994-96 biennium shall be declared by the Kentucky Board of Education to be a "school in crisis." When a school is declared to be a "school in crisis," the following actions shall be required:~~

~~(a) The full-time and part-time certified staff of that school shall be placed on probation;~~

~~(b) The principal shall immediately notify the students' parents of the students' right to transfer to a successful school, with procedures for initiating the request;~~

~~(c) Within thirty (30) days after the declaration by the state board under this subsection or no later than thirty (30) days before the start of the next school year, whichever is later, any student in that school may request and shall be allowed to transfer to a successful school as determined under the provisions of subsection (2) of this section. The superintendent shall select the receiving successful school in the home district or make arrangements with a neighboring district. If two (2) districts cannot agree, the superintendent of the student's resident district shall request the Kentucky Board of Education to resolve the issue and make a decision on the placement of the student within thirty (30) days of the request. The board of the district in which the student resides shall be responsible for all tuition and transportation costs incurred as a result of a student transferring from a "school in crisis" to a successful school. If a decline in student enrollment causes overstaffing at the "school in crisis," personnel shall be reduced or transferred pursuant to KRS 161.760 and 161.800.~~

~~(d) One (1) or more Kentucky distinguished educators shall be assigned to the school by the commissioner of education to carry out the duties as described in KRS 158.782. Notwithstanding any other statute to the contrary, at the end of six (6) months, the Kentucky distinguished educator shall evaluate and make a recommendation to the superintendent regarding the retention, dismissal, or transfer of each full-time and part-time certified staff member. Recommendations for transfer shall conform to any employer-employee bargained contract which is in effect. Recommendations for dismissal shall be binding on the superintendent who shall notify the staff member pursuant to KRS 161.790. This evaluation process shall continue every six (6) months until the school is no longer a "school in crisis" as determined by the Kentucky Board of Education; and~~

~~(e) The school shall be required to develop a school improvement plan and shall be eligible to receive funds from the~~

~~school improvement fund.~~

~~(6) The Kentucky Board of Education shall develop a system of rewards and sanctions for certified staff who are not assigned to a school in a local school district. The system shall be analogous to the system described in subsections (1) to (5) of this section. Rewards shall be given to nonschool based staff when the district's proportion of successful students increases above a threshold adopted by the state board and comparable to the threshold adopted for schools. Sanctions shall be imposed when the proportion of successful students in the district declines in the same proportion used to determine school sanctions under subsections (3), (4), and (5) of this section. A school district that does not meet its threshold shall be required to develop a district improvement plan defined in KRS 158.650.~~

~~(7) A school district in which the proportion of successful students declines by five percent (5%) or more in any biennium beginning with the 1994-96 biennium shall be assigned one (1) or more Kentucky distinguished educators to assist the system, evaluate personnel, and notwithstanding any other statute to the contrary, make personnel recommendations every six (6) months on retention, dismissal, or transfer. Personnel recommendations shall be made to the superintendent. Recommendations on the superintendent's status shall be made to the local board of education. If the recommendation is to terminate the superintendent, the board shall terminate the contract pursuant to KRS 160.350. If a district has a declining proportion of successful students for two (2) consecutive biennial assessment periods, the district shall be declared an education development district pursuant to KRS 158.685, and the board members and the superintendent shall be removed under the provisions of KRS 156.132 and 156.136.~~

~~(8)~~]the Kentucky Board of Education shall ***promulgate***~~[adopt]~~ administrative regulations ***in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A***, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 13. KRS 158.805 is amended to read as follows:

(1) There is hereby created the Commonwealth school improvement fund to assist local schools in pursuing new and innovative strategies to meet the educational needs of the school's students and raise the school's performance level. The Kentucky Board of Education shall utilize the Commonwealth school improvement fund to provide grants to schools for the following purposes:

(a) To support teachers and administrators in the development of sound and innovative approaches to improve instruction or management;

(b) To assist in replicating successful programs developed in other districts;

(c) To encourage cooperative instructional or management approaches to specific school educational problems; and

(d) To encourage teachers and administrators to conduct experimental programs to test concepts and applications being advanced as solutions to specific educational problems.

(2) The Kentucky Board of Education shall develop criteria for awards of grants from the Commonwealth school improvement fund to schools ***that***~~[in educationally deficient districts pursuant to KRS 158.685 through the 1993-94 school year. Beginning with the 1994-95 school year, grants shall go to schools which]~~ do not meet their threshold as defined in KRS 158.6455.~~[The Governor shall appoint an advisory committee which shall include teachers, administrators, teacher educators, and representatives of the general public to assist in the planning and implementation of the Commonwealth school improvement fund. The members of the advisory committee shall serve without compensation, but shall be reimbursed for all reasonable expenses incurred in the discharge of official duties. The committee shall advise the board on application procedures, review of proposals, evaluation criteria, reporting requirements, and other matters relating to the fund as requested by the board.]~~

(3) The Kentucky Board of Education shall have the sole authority to approve grants from the fund.~~[The advisory committee shall review proposals for grants and make recommendations to the board relating to the merits of each proposal.]~~

(4) The Kentucky Board of Education may establish priorities for the use of the funds and, through the Department of Education, shall provide assistance to schools in preparing their grant proposals. The board shall require that no funds awarded under the Commonwealth school improvement fund are used to supplant funds from any other source. Requests for necessary equipment may be approved at the discretion of the state board, however the cost of equipment purchased by any grantee shall not exceed twenty percent (20%) of the total amount of money awarded for each proposal and shall be matched by local funds on a dollar for dollar basis.

(5) The Kentucky Board of Education shall establish maximums for specific grant awards. All fund recipients shall provide the board with an accounting of all money received from the fund and shall report the results and conclusions of any funded projects to the Kentucky Board of Education. All fund recipients shall provide the board with adequate documentation of all projects to enable replication of successful projects in other areas of the state.

Section 14. KRS 158.782 is amended to read as follows:

(1) ***After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability,*** the Kentucky Board of Education shall promulgate administrative regulations ***in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A,*** to set forth the ***guidelines for providing highly skilled education assistance to school districts. The program shall be designed to support improved teaching and learning and may include, but not be limited to, establishing the following:***

(a) Criteria for identifying successful strategies of assistance;

(b) Policies and procedures for providing education assistance, which may include training, making assignments, employing certified personnel, and setting salaries that may include supplements; and

(c) Duties of those providing education assistance, which may include personnel evaluation and recommendations concerning retention, dismissal, or transfer of personnel.

(2) A district employee selected to provide assistance~~[criteria for the Kentucky Distinguished Educators Program which shall be implemented by July 1, 1991. The designation of "Kentucky Distinguished Educator" shall be given to the state's most outstanding and highly skilled certified educators who deserve recognition and are willing to fulfill the following purposes of the program:~~

~~(a) Serving as teaching ambassadors to spread the message that teaching is an important and fulfilling profession;~~

~~(b) Assisting the Department of Education with research projects and staff development efforts;~~

~~(c) Accepting assignments in schools whose percentage of successful students declined as described in KRS 158.6455. The assignments shall require the educator to:~~

~~1. Work in a school on a full-time or part-time basis for a designated period of time to assist the school staff with implementing its school improvement plan. The educator shall have the authority in a school in crisis as defined in KRS 158.6455(5) to make decisions previously made by the school staff;~~

~~2. Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance; and~~

~~3. Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a "school in crisis."~~

~~4. Complete an intensive training program, provided by the Department of Education and approved by the Kentucky Board of Education, prior to being assigned to assist a school's staff with implementing its school improvement plan. The training program shall include, but shall not be limited to instruction in the methods of personnel evaluation, school organization, school curriculum, and assessment.~~

~~(2) The Kentucky Distinguished Educators Program criteria shall include:~~

~~(a) A selection process which shall allow for self nomination, provide a broad spectrum of instructional positions, and generate statewide representation.~~

~~(b) Beginning with the 1992-93 school year, special recognition shall be given to five (5) Kentucky distinguished educators each year in the form of a one (1) year sabbatical leave to work with instructional personnel across the state and to serve as teaching ambassadors to the state at large.~~

~~(c) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his current salary for other program requirements which arise pursuant to subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky Distinguished Educators Program, except those expenses associated with the funding of the position of the person who replaces the Kentucky distinguished educator when he is assigned to an unsuccessful school or district.~~

~~(d) Kentucky distinguished educators assigned to an unsuccessful school shall receive a salary supplement of fifty percent (50%) of his annual salary for each year of service in that capacity. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If his assigned school achieves the threshold level in the next biennial review, he shall receive his portion of the reward due to the entire staff calculated on his base salary regardless of decisions made by the school staff pursuant to KRS 158.6455(1)(g).~~

~~(e) The Kentucky distinguished educator]~~ shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. ***A certified employee***~~[The Kentucky distinguished educator]~~shall not lose any employee benefits as a result of ***a***~~[his]~~ special assignment.

~~[(f) A Kentucky distinguished educator shall not be assigned to a school or to a district assignment in the district in which he is employed.]~~

Section 15. KRS 156.132 is amended to read as follows:

As used in this section, except subsection (1), "public school officer" means a person who previously served as a superintendent of schools or board member during which time charges were brought against him under this section.

(1) The chief state school officer shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher, member of a school council, or other public school officer as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. In the case of a member of a school council, the written charges shall be provided to the local board of education.

(2) The chief state school officer shall recommend by written charges the suspension by the Kentucky Board of Education of any district board member, superintendent of schools, or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, ***or*** nonfeasance~~[, or who shall be removed pursuant to KRS 158.6455(7)]~~. If the charges brought under this subsection represent an immediate threat to the public health, safety, or welfare, the Kentucky Board of Education shall summarily suspend the person against whom the charges are made. The action by the Kentucky Board of Education may be taken upon a recommendation of the chief state school officer, or the action may be taken by a majority vote of the Kentucky Board of Education without recommendation from the chief state school officer.

(3) The Kentucky Board of Education may suspend a district superintendent of schools or other public school officer under subsection (2) of this section or remove him pursuant to subsection (5) of this section only if, after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the proper school authorities having immediate jurisdiction, either the superintendent or the district board of education, have refused to act, have acted in bad faith, arbitrarily, or capriciously, or if a recommendation to the district board would have been futile.

(4) Any officer suspended by the Kentucky Board of Education under subsection (2) of this section shall be furnished with an emergency order specifying in detail the reasons for suspension and notifying the officer of his right to appeal the action and have an emergency hearing pursuant to KRS 13B.125.

(5) As an alternative to first seeking suspension, the chief state school officer may recommend by written charges the removal by the Kentucky Board of Education of any district board member, superintendent of schools, or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance~~[, or who shall be removed pursuant to KRS 158.6455(7)]~~. The officer against whom the written charges are issued by the chief state school officer shall be furnished with the written charges and notice of procedural rights conferred under KRS Chapter 13B. Within twenty (20) days after receipt of the charges, the officer may notify the Kentucky Board of Education of his intention to appear and answer the charges. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the officer fails to notify the board of his intention to appear and answer the charges, the Kentucky Board of Education may remove the officer by a majority vote, and the dismissal shall be final.

(6) The hearing shall be public or private at the discretion of the accused former or current superintendent and shall be public when testimony is taken for board members.

(7) The Kentucky Board of Education may meet in closed session to consider the evidence and may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare final order specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension if applicable, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.

(8) The officer shall have a right to appeal on the record to the Circuit Court located in the county of the school district in accordance with KRS Chapter 13B. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the State Department of Education.

(9) If a superintendent of schools is removed from office or resigns while charges are pending pursuant to this section after July 15, 1994, any continuing contract pursuant to KRS 161.720 to 161.810 shall be terminated. If the removal is reversed upon appeal, the continuing contract shall be restored and he shall be paid his full salary for the period of suspension.

Section 16. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made~~[by a Kentucky distinguished educator]~~ under KRS 158.6455.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the chief state school officer and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.

(4) Upon receiving the teacher's notice of his intention to answer the charge, the chief state school officer shall appoint a three (3) member tribunal, consisting of one (1) teacher, one (1) administrator, and one (1) lay person, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. The chief state school officer shall name the chairman and set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge.

(5) The hearing may be public or private at the discretion of the teacher. At the hearing, a hearing officer appointed by the chief state school officer shall preside with authority to rule on procedural matters, but the tribunal shall be the ultimate trier of fact. The local board shall pay each member of the tribunal a per diem of one hundred dollars ($100) and travel expenses.

(6) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. Provisions of KRS Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be rendered on the record.

(7) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.

(8) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B.

(9) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including, suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply, except to a private reprimand. The teacher may appeal the action of the superintendent, except a private reprimand, in the same manner as established in subsections (4) to (8) of this section. Upon completion of a suspension period, the teacher may be reinstated.

Section 17. Notwithstanding any provision of Sections 11, 12, 13, and 14 of this Act to the contrary, the Kentucky Board of Education shall administer the assessment program and classify schools and districts based on the results for the 1994-98 accountability cycle according to the Kentucky Board of Education administrative regulations in force for the cycle on the effective date of this Act, with the following modifications made for distributing rewards and applying consequences for the biennium:

(1) The Department of Education shall administer the 1997-98 KIRIS to include the following:

(a) Reading in grades four (4), seven (7), and eleven (11);

(b) Mathematics in grades five (5), eight (8), and eleven (11);

(c) Science in grades four (4), seven (7), and eleven (11);

(d) Social studies in grades five (5), eight (8), and eleven (11);

(e) A writing prompt in grades four (4), seven (7), and eleven (11);

(f) Arts and humanities and practical family living skills in grades five (5), eight (8), and eleven (11); and

(g) A writing portfolio in grades four (4), seven (7), and twelve (12).

(2) Twenty-seven million dollars ($27,000,000) shall be paid out of the Kentucky successful schools trust fund under KRS 157.067. The Kentucky Board of Education shall determine an amount to be distributed to every school that exceeds its 1994-96 baseline in the 1996-98 school years and twice that amount to every school that exceeds its threshold level for school improvement. Rewards shall be given to the school's full-time, part-time, and itinerant instructional staff assigned to the school on the last working day of the accountability cycle unless a majority of the certified staff vote otherwise. Rewards shall not be added to a staff person's base salary and shall not be defined as compensation for retirement purposes under KRS 161.220 (10);

(3) All schools failing to reach their school improvement goal shall develop a school improvement plan and may apply for Commonwealth school improvement funds; and

(4) All schools classified as "in decline" or "in crisis" may request the assistance of a distinguished educator to act only in an advisory capacity. No employee shall be placed on probation based on the school being designated "in crisis." Parents of students attending a school classified as "in crisis" may request to transfer their children to a successful school.

(5) Three million dollars ($3,000,000) shall be transferred from the Kentucky successful schools trust fund under KRS 157.067 to the Commonwealth school improvement fund established under Section 13 of this Act and appropriated to fund grants to schools classified as "in decline" or "in crisis".

(6) Outstanding reward funds to qualified schools whose results changed for Accountability Cycle Two shall be distributed within two (2) weeks following the effective date of the Act.

Section 18. Whereas it is imperative that the new assessment and accountability system be implemented as expeditiously as possible to better enable the General Assembly to carry out its constitutional duty to establish an efficient system of common schools, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 53** is as follows:

By amending the title to read as follows: "AN ACT relating to education and declaring an emergency.".

The Senate Floor Amendment No. 11 to the Senate Committee Substitute to **HB 53** is as follows:

On page 14, line 15, after "program", by inserting "*to be known as the Commonwealth Accountability Testing System*"; and

On page 15, line 16, after "*work*" by inserting "*. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following the effective date of the Act, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels*"; and

On page 16, line 21, after "*to, the*", by deleting "*relationship*", and inserting the following in lieu thereof:

"*consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials.*"; and

On page 16, by deleting lines 22 and 23 in their entirety; and

On page 16, line 24, by deleting "*accountability system is accurate.*"; and

On page 22, line 24, after "*Accountability,*", by inserting "*the Kentucky Board of Education may promulgate by administrative regulation in conformity with Sections 3 and 4 of this Act and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.*

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability,"; and

On page 34, between lines 20 and 21, by inserting the following:

"SECTION 17. A NEW SECTION OF KRS 158 IS CREATED TO READ AS FOLLOWS:

The Department of Education shall develop a plan for implementing the state assessment and accountability system created under Sections 11 and 12 of this Act and shall report quarterly to the Interim Joint Committee on Education on its progress in the following areas:

(1) Establishing a consistent structure of test components, grade-level testing distribution, and test administration procedures;

(2) Beginning a new cycle of equating procedures for which their adequacy and precision can be tested rigorously and conducting appropriate equating analyses to accommodate the new accountability system;

(3) Publishing more complete and informative guides for interpreting school accountability index score changes that include information about the estimated error of the accountability index, as well as information about the connections between index score changes and estimated changes in student performance levels;

(4) Reviewing school accountability classifications to assure their construct validity in all cases where they are applied;

(5) Maintaining and strengthening the annual audit of portfolio scores in ways that serve to minimize the differences between teacher-produced scores and audit-generated scores;

(6) Developing and implementing a validity research plan as required under Section 11 of this Act;

(7) Establishing additional routine audits of key processes in the assessment and accountability program;

(8) Maintaining and cataloging a library of technical documents related to the assessment and accountability program for internal and external review purposes. In addition, the department shall produce an annual technical report for audiences that include educators, testing coordinators, parents, and legislators; and

(9) Maintaining a vigorous ongoing program of research and documentation of the effects of the assessment and accountability system on Kentucky schools."; and by renumbering the subsequent Sections; and

On page 35, line 23, after "(4)", by deleting line 23 through 27 in their entirety and inserting the following:

"All schools in which the proportion of successful students declined in the 1996-98 school years may request highly skilled education assistance for advisory purposes. No school employee shall be placed on probation based upon school classification. Parents of students attending a school which would have been classified "in crisis", based upon the school classification procedure in use prior to the effective date of the Act, may request to transfer their children to another school."; and

On page 36, after line 7 by inserting the following:

"(7) The classification of schools as "in crisis" based on data obtained in Accountability Cycle 2, and Accountability Cycle 3 ending 1997-98 shall be void, and these schools shall be classified as "in decline.""

The Senate Floor Amendment No. 12 to the Senate Committee Substitute to **HB 53** is as follows:

On page 16, line 6, after "***Measure***", by inserting "***grade appropriate***", and after "***higher-order***" by inserting "***thinking***", and after "***skills***" the second time it appears, by deleting "***that are grade appropriate identified***" and inserting "***and their application. The assessment shall measure the core content for assessment used***"; and

On page 18, line 13, after "***principal.***", by adding "***The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.***"; and

On page 30, between lines 2 and 3, by inserting the following:

"***(3) The Kentucky Board of Education shall annually review the paperwork required of schools receiving highly skilled certified education assistance. It shall assure that paperwork requirements are kept to a minimum, relevant to the needs of the school, and are directly related to improving teaching and learning.***"

The Senate Floor Amendment No. 13 to the Senate Committee Substitute to **HB 53** is as follows:

On page 5, line 3, by changing "***fifteen (15)***" to "***seventeen (17)***" ; and

On page 5, line 23, after "***(g)***", by inserting "***Two (2) employers in the state from recommendations submitted by organizations representing business and industry;***

(h)"; and

On page 5, line 25, before "***One***", by changing "***(h)***" to "***(i)***"; and

On page 26, line 10, after "schools", by deleting "***that***" and inserting "***identified by the board as needing assistance under***";

On page 26, line 12, after "~~which~~", by moving the bracket "]" to follow the word "in", after "defined" on line 13, and striking through the intervening language; and

On page 27, line 18, after "***to***", by inserting "***schools and***"; and

On page 34, between lines 20 and 21, by inserting the following:

"Section 17. KRS 160.350 is amended to read as follows:

(1) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. The person appointed to serve as acting superintendent shall not be an applicant for, nor be appointed to, the position of superintendent. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in

regular installments.

(2) Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a ***highly skilled certified*** [~~Kentucky distinguished~~] educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request."; and by renumbering the subsequent Sections; and

On page 35, line 10, before "Twenty-seven", by inserting "Notwithstanding any provision of KRS 157.067 to the contrary,"; and

On page 35, line 11, after "fund", by deleting "under KRS 157.067"; and

On page 35, line 15, after "itinerant", by deleting "instructional" and inserting "certified"; and

On page 35, line 24, before "educator", by deleting "distinguished" and inserting "highly skilled certified"; and

On page 36, line 1, before "Three", by inserting "Notwithstanding any provision of KRS 157.067 to the contrary,"; and

On page 36, line 2, after "fund", by deleting "under KRS 157.067".

Representative Hatcher moved that the House concur in the Senate Committee Substitute to **HB 53**. Agreed.

Representative Moberly moved that the House concur in the Senate Floor Amendment No. 11 to the Senate Committee Substitute to **HB 53**. Agreed. Representative Moberly moved that the House concur in the Senate Floor Amendment No. 12 to the Senate Committee Substitute to **HB 53**. Agreed. Representative Moberly moved that the House concur in the Senate Floor Amendment No. 13 to the Senate Committee Substitute to **HB 53**. Agreed.

Representative Moberly moved that **HB 53** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 6 (See April 1, 1998 roll call on **HB 53** - Appendix.) **HB 53**, by way of Committee Substitute as amended by the Senate, was passed. Representative Hatcher moved the adoption of Senate Committee Amendment No. 1 Title to the Committee Substitute to **HB 53**. Agreed; and the title was agreed to. Representative Hatcher moved that the vote by which **HB 53**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

A Majority Free Conference Committee Report was filed on **HB 74**. A Minority Free Conference Committee Report was filed on **HB 74**.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 121, HB 229, HB 285, HB 330, HB 337, HB 380, HB 460, HB 496, HB 554, HB 560, HB 565, HB 612, HB 649, HB 671, HB 703, HB 736, HB 740, SB 18, SB 19, SB 41, SB 55, SB 65, SB 92, SB 119, SB 128, SB 208, SB 214, SB 228, SB 257, SB 277, SB 328, SB 339, SB 351, SB 364, SB 373, SB 376, SB 395, SB 399,** and **SCR 95** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -12:35 p.m.) **HB 121, HB 285, HB 330, HB 337, HB 380, HB 460, HB 496, HB 554, HB 560, HB 565, HB 612, HB 649, HB 671, HB 703, HB 736, HB 740** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1998 at 1:15 p.m.

HB 229 delivered to the Senate and signed by the President. Delivered to the Secretary of State on April 1, 1998 at 1:03 p.m.

Orders of the Day (Continued)

HB 810, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 810** is as follows:

AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department of Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the Department of Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department of Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department of Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	*Steps and Salary for Affected Officers*			
Group I	*Step 1*	*Step 2*	*Step 3*	*Step 4*
0-4,999	*$ 6,600*	*$ 6,800*	*$ 7,000*	*$ 7,200*
Group II				
5,000-9,999	*7,200*	*7,400*	*7,600*	*7,800*
Group III				
10,000-19,999	*7,800*	*8,000*	*8,200*	*8,400*
Group IV				
20,000-29,999	*8,100*	*8,400*	*8,700*	*9,000*
Group V				
30,000-44,999	*8,700*	*9,000*	*9,300*	*9,600*
Group VI				
45,000-59,999	*9,000*	*9,400*	*9,800*	*10,200*
Group VII				
60,000-89,999	*9,600*	*10,000*	*10,400*	*10,800*
Group VIII				
90,000-499,999	*9,900*	*10,400*	*10,900*	*11,400*
Group IX				
500,000 and up	*10,500*	*11,000*	*11,500*	*12,000*

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the

Department of Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in Section 1 of this Act, no county official holding office on the effective date of this Act, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on the effective date of this Act.

(6) In addition to the step increases based on service in office, each officer shall be paid an increase of one hundred dollars ($100) for each forty (40) hour training unit successfully completed. Each training unit shall be approved and certified by the Department of Local Government. Each unit shall be available to officials in each office based on continuing service in that office.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training and resulting one hundred dollars ($100) per forty (40) hour unit increase.

Section 2. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary ***pursuant to the salary schedule in Section 1 of this Act***[~~of fourteen thousand three hundred dollars ($14,300)~~].

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

Section 3. KRS 64.347 is amended to read as follows:

The population of a county shall, for the purposes of KRS [~~64.345 and~~]64.346, be determined by the most recent federal decennial census enumeration, provided however that the provisions of those sections and subsections shall not become operative to such officers mentioned therein during their term, in counties determined to have acquired, since the last census, a population of more than 75,000.

Section 4. KRS 64.527 is amended to read as follows:

In order to equate the compensation of[~~county judges/executive, county clerks, sheriffs, jailers,~~] justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

Section 5. KRS 64.535 is amended to read as follows:

The county ***judge/executive, clerk, jailer who operates a full service jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in Section 1 of this Act***[~~clerk, county judge/executive and sheriff of each county shall receive a maximum monthly salary of one twelfth (1/12) of fourteen thousand three hundred dollars ($14,300) to be paid solely out of the statutory fees and salaries received by him during the calendar year~~].

Section 6. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term.

(2) The [~~salary of the~~]county judge/executive shall ***receive an annual salary pursuant to the salary schedule in Section 1 of this Act, except in counties that contain an urban-county form of government, where the county judge/executive shall receive the salary set by the legislative body***[~~be set by the fiscal court~~].

(3) [~~Except in urban-county governments, the minimum annual compensation paid to the county judge/executive shall be the greater of a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, or not less than the annual compensation of the sheriff or county clerk or jailer in the county, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one (1) official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing moneys.~~

~~(4)~~] In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

Section 7. KRS 441.245 is amended to read as follows:

(1) The jailer ***who operates a full service jail*** shall receive a monthly salary ***pursuant to the salary schedule in Section 1 of this Act*** from the county jail operating budget.

(2)[~~In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on July 1, 1982, shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000, whichever is greater. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527. In the event that a jail was closed during calendar year 1981, the secretary of finance may, upon proper documentation by the jailer, direct that a prior calendar year's level of compensation be used as a basis for setting the jailer's compensation pursuant to this section.~~

~~(3) The jailer's monthly salary for the period July, 1982, through December, 1982, shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982, divided by six (6).~~

~~(4) Except as provided in subsection (5) of this section, the jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.~~

~~(5)~~] Effective January 6, 1986, the salary for jailers in any county where there is no jail and the jailer does not transport prisoners shall be twelve thousand dollars ($12,000) per year.

Representative P. Clark moved that the House concur in Senate Committee Substitute to **HB 810**. Agreed.

Representative P. Clark moved that **HB 810**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 65, Nays 20 (See April 1, 1998 roll call on **HB 810** - Appendix.) **HB 810**, by way of Senate Committee Substitute, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 810**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 272, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 272** is as follows:

On page 6, line 27, through page 7, line 6, by deleting Section 4 in its entirety; and

On page 7, line 7, by changing "Section 5" to "Section 6".

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 272**. Agreed.

Representative Wayne moved that **HB 272**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See April 1, 1998 roll call on **HB 272** - Appendix.) **HB 272**, as amended by the Senate, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 272**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 273** is as follows:

On page 4, line 16, after the period, by inserting "***The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.***".

The Senate Floor Amendment No. 2 to **HB 273** is as follows:

On page 4, lines 9 to 12, by deleting all underlined language on those lines; and

On page 4, lines 12 to 15, by removing the brackets and strikethroughs from all bracketed and struckthrough language on those lines.

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 273**. Agreed. Representative Wayne moved that the House concur in Senate Floor Amendment No. 2 to **HB 273**. Agreed.

Representative Wayne moved that **HB 273**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 1 (See April 1, 1998 roll call on **HB 273** - Appendix.) **HB 273**, as amended by the Senate, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 273**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 471** is as follows:

On page 3, line 7, after the word "***workers***" by deleting the words "***through local health***" and on line 8 by deleting the word "***departments***"; and

On page 3, line 23, after the word "***shelter***" by deleting the words "***by an***" and on line 24 by deleting the words "***animal owner or local health department***" and inserting in lieu thereof the words "***when quarantine by the owner is not feasible or desirable***"; and

On page 3, line 25, after the word "***owner***" by deleting the words "***local health departments***"; and

On page 4, line 5, after the word "***department***" by inserting the words "***may bear the cost at its discretion***".

Representative Stein moved that the House concur in Senate Floor Amendment No. 2 to **HB 471**. Agreed.

Representative Stein moved that **HB 471**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 0 (See April 1, 1998 roll call on **HB 471** - Appendix.) **HB 471**, as amended by the Senate, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 471**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 468** is as follows:

On page 2, line 13, after "*202A*", by inserting "*, 202B, 210,*";

On page 2, line 14, after "*Kentucky*" by deleting "*work programs*" and inserting "*Works Program*" in lieu thereof; and

On page 2, line 14, after "*or*", by deleting "*195*" and inserting "*205*" in lieu thereof.

The Senate Floor Amendment No. 5 to **HB 468** is as follows:

On page 5, between lines 7 and 8, by inserting the following:

"*(6) All willing providers or entities who meet the applicable requirements of subsection (5) of this section shall be provided by the broker with an application for enrollment as a subcontractor for the human service transportation delivery programs.*"; and

On page 13, on line 9 before the words "A carrier", by inserting the following:

"*For human service transportation delivery programs, any disabled persons carrier transporting persons with disabilities requiring the use of specialized equipment shall comply with the provisions of KRS 281.014(5)(a). A carrier operating under a disabled person certificate may provide service to any person not requiring the use of the specialized equipment. A person requiring the use of specialized equipment may be accompanied by a companion*"; and

On page 13, line 9, by placing an opening bracket before the words "A carrier" and striking through the remainder of line 9; and

On page 13, by striking through lines 10 through 13 in their entirety; and

On page 13, line 14, by striking through all the language before the "." and by placing a closing bracket after the word "statewide"; and

On page 13, line 15, before "(3)" by inserting "*(2)*" ; and

On page 13, line 15, by bracketing and striking through "(3)"; and

On page 13, line 15, before "July 1, 1996" by inserting "*January 1, 1998*"; and

On page 13, line 15, by bracketing and striking through "July 1, 1996"; and

On page 13, at the end of line 21 by inserting "*Any person or the person's predecessor in interest with a pending taxicab application filed prior to January 1, 1998, may elect to amend the pending taxicab application so as to designate all or a portion of the application as an application for approval to operate disabled person vehicles.*"; and

On page 13, by deleting lines 22 and 23 in their entirety.

Representative Worthington moved that the House concur in Senate Floor Amendment No. 2 to **HB 468**. Agreed. Representative Worthington moved that the House concur in Senate Floor Amendment No. 5 to **HB 468**. Agreed.

Representative Worthington moved that **HB 468**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 0 (See April 1, 1998 roll call on **HB 468** - Appendix.) **HB 468**, as amended by the Senate, was passed and the title agreed to. Representative Worthington moved that the vote by which **HB 468**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 536, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 536** is as follows:

On page 5, line 16, after "(3)", by inserting "*(a)*"; and

On page 5, line 18, after "KRS 156.095." by inserting:

"*(b) A local board may approve a school's flexible professional development plan that permits teachers, or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.*

(c)";

On page 5, line 21, after "Friday.", by inserting "***(d)***";

On page 5, line 22, after "pupils.", by inserting "***(e)***";

On page 5, at the beginning of line 24, by inserting:

"***1.***" and by bracketing and striking through "(a)";

On page 5, at the beginning of line 26, by inserting:

"***2.***" and by bracketing and striking through "(b)";

On page 5, at the beginning of line 27, by inserting:

"***3.***" and by bracketing and striking through "(c)";

On page 6, line 6, after "subsection (3)" by bracketing and striking through "(b)"; and

On page 6, line 6, after "defined in", by inserting "***paragraph (e)2. of***".

Representative Moberly moved that the House concur in Senate Committee Amendment No. 1 to **HB 536**. Agreed.

Representative Moberly moved that **HB 536**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See April 1, 1998 roll call on **HB 536** - Appendix.) **HB 536**, as amended by the Senate, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 536**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 900, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 900** is as follows:

On page 2, after line 7, by inserting the following:

"Section 2. KRS 159.150 is amended to read as follows:

Any child who has been absent from school without valid excuse for three (3) or more days, or tardy ***without valid excuse*** on three (3) or more days, is a truant. Any child who has been reported as a truant three (3) or more times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy. ***A local board of education may adopt reasonable policies that require students to comply with compulsory attendance laws, that require truants and habitual truants to make up unexcused absences, and that impose sanctions for noncompliance.***

Representative Riner moved that the House concur in Senate Committee Amendment No. 1 to **HB 900**. Agreed.

Representative Riner moved that **HB 900**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 79, Nays 5 (See April 1, 1998 roll call on **HB 900** - Appendix.) **HB 900**, as amended by the Senate, was passed and the title agreed to. Representative Riner moved that the vote by which **HB 900**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 11, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HCR 11** is as follows:

On page 1, after line 7, by adding a new section as follows:

"Section 3. Whereas, Jennifer Jones has been serving on the Governor's Postsecondary Education Nominating Committee pending her confirmation and her term is to expire on April 14, 1998, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

The Senate Committee Amendment No. 2 Title to **HCR 11** is as follows:

By amending the title to read as follows: "A CONCURRENT RESOLUTION confirming the appointment of Jennifer Jones to the Governor's Postsecondary Education Nominating Committee and declaring an emergency."

Representative Stumbo moved that the House concur in Senate Committee Amendment No. 1 to **HCR 11**. Agreed.

Representative Stumbo moved that **HCR 11**, as amended by the Senate, be adopted.

On the roll call the vote was: Yeas 89, Nays 0 (See April 1, 1998 roll call on **HCR 11** - Appendix.) **HCR 11**, as amended by the Senate, was adopted. Representative Stumbo moved the adoption of Senate Committee Amendment No. 2 Title to **HCR 11**. Agreed; and the title was agreed to. Representative Stumbo moved that the vote by which **HCR 11**, as amended by the Senate, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 186** be posted for passage in the Orders of the Day. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 2:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received on **SB 224**: The Senate has refused to concur in the House Committee Substitute to **SB 224** and House Floor Amendment No. 1 and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendment. Message received on **HB 393**: The Senate has receded from its Floor Amendment No. 2 to **HB 393** and is respectfully returning same to this Honorable Body for enrollment. Message received on **HB 226**: The Senate has adopted the Free Conference Committee Report on **HB 226** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. Message received on **HJR 92**: At your request, the Senate is returning **HJR 92** for your consideration. (Time 2:15 p.m.) A Free Conference Committee Report was filed on **HB 63**.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 65, HB 230, HB 317, HB 318, HB 495, HB 510, HB 519, HB 608, HB 629, HB 641, HB 655, HB 673, HB 675, HB 704, HB 739, HB 779, HB 786, HB 815, HB 864,** and **HCR 114** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:15 p.m.) **HB 65, HB 230, HB 317, HB 318, HB 495, HB 510, HB 519, HB 608, HB 629, HB 641, HB 655, HB 673, HB 675, HB 704, HB 739, HB 779, HB 786, HB 815, HB 864,** and **HCR 114** delivered to the Senate and signed by the President. Delivered to the Governor on April 1 at 4:29 p.m.

Representative Colter moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Colter moved the adoption of the following **Legislative Citation No. 258**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Stinnett Elementary School Cheerleaders for skillful and enthusiastic performances which resulted in these talented athletes attaining first place honors in the 1998 CANAM International Cheer and Dance Championships competition in Myrtle Beach, South Carolina. Under the superb guidance of Cheerleading Sponsor Vicki Wooton and the steadfast support of Principal Debbie Napier, these exceptional students have brought pride and honor to Stinnett Elementary School, the community of Hyden and this great Commonwealth. Inasmuch as these cheerleaders have demonstrated extraordinary effort, determination and hard work, the members of this distinguished body are pleased to join with Representative Barbara White Colter in applauding them for their well-deserved recognition and in extending best wishes for continued success. **Legislative Citation No. 258** was adopted without objection. Representative Ford moved that the rules be suspended to allow the cheerleaders to perform. Agreed.

Representative L. Clark moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative L. Clark moved the adoption of the following **Legislative Citation No. 236**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Representative Gross Clay Lindsay and sorely sympathizes with his hapless plight during this session of the Kentucky General Assembly; plunging to unfortunate depths in status, metamorphosed from an impressive "half a pie," to a mere "piece of the pie." This honorable body recommends that if said recipient wants to reverse the direction of his evolution and compete equally on a baking sheet against the enormity of the successes of the gentleman from Henderson, Senator Paul "Pie" Herron, whose master status is discussed far and wide; therefore, we join Representative Larry Clark who has encouraged "the piece of the pie" to expand his horizons and his baking options that he too, like the mighty yeast might yet rise, full of air, to fulfill the entire pie pan and follow in the floury footprints of that magnanimous model of achievement. **Legislative Citation No. 236** was adopted without objection. Roll call to show co-sponsors of Legislative Citation No. 236: (See April 1, 1998 roll call on **Legislative Citation No. 236** - Appendix)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon **SB 227**. Agreed.

SB 227, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of House Floor Amendment No. 5 to **SB 227**. Agreed.

Representative Pope moved that **SB 227**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See April 1, 1998 roll call on **SB 227** - Appendix.) **SB 227**, as amended, was passed. Representative Pope moved the adoption of House Floor Amendment No. 3 Title to **SB 227**. Agreed; and the title was agreed to. Representative Pope moved that the vote by which **SB 227**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 177**. Agreed.

SB 177, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 177** be passed.

Representative Anderson moved the adoption of House Floor Amendment No. 20 to **SB 177**. Representative Long inquired if House Floor Amendment No. 20 was germane to **SB 177**. The Speaker ruled that House Floor Amendments Nos. 1 through 20 were not germane to **SB 177**.

Representative Deskins moved that the rules be suspended to consider House Floor Amendment No. 15 Title to **SB 177**. On the roll call on the motion to consider House Floor Amendment No. 15 to **SB 177** the vote was Yeas 32, Nays 44 - (See April 1, 1998 on the roll call on **SB 177** - Appendix) The motion to consider House Floor Amendment No. 15 Title to **SB 177** was rejected.

On the roll call on passage the vote was: Yeas 90, Nays 3 (See April 1 , 1998 roll call on **SB 177** - Appendix.) **SB 177** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 177** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 326**. Agreed.

SB 326, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the House Committee Substitute to **SB 326**. Agreed. Representative Siler moved the adoption of House Floor Amendment No. 4 to the Committee Substitute to **SB 326**. Agreed.

Representative Siler moved that **SB 326**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See April 1, 1998 roll call on **SB 326** - Appendix.) **SB 326**, by way of House Committee Substitute as amended, was passed. Representative Siler moved the adoption of House Floor Amendment No. 2 Title to the House Committee Substitute to **SB 326**. Agreed; and the title was agreed to. Representative Siler moved that the vote by which **SB 326**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 247**. Agreed.

SB 247, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of House Floor Amendment No. 3 to **SB 247**. Agreed.

Representative Barrows moved that **SB 247**, as amended, be passed.

Representative D. Butler moved the adoption of House Floor Amendment No. 1 to **SB 247**. Agreed.

Representative Barrows moved that **SB 247**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See April 1, 1998 roll call on **SB 247** - Appendix.) **SB 247**, as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **SB 247**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 33**. Agreed.

SB 33, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of House Floor Amendment No. 4 to **SB 33**. Agreed.

Representative Vincent moved the adoption of House Floor Amendment No. 5 to **SB 33**. Agreed.

Representative Ballard moved that **SB 33**, as amended, be passed.

Representative Barrows moved the adoption of House Floor Amendment No. 3 to **SB 33**. Rejected.

Representative Ballard moved that **SB 33**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See April 1, 1998 roll call on **SB 33** - Appendix.) **SB 33**, as amended, was passed and the title agreed to. Representative Ballard moved that the vote by which **SB 33**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 265**. Agreed.

SB 265, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the House Committee Substitute to **SB 265**. Agreed.

Representative Murgatroyd moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 265**. Agreed.

Representative Rasche moved that **SB 265**, by way of Committee Substitute as amended, be passed.

Representative D. Butler moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 265**. Representative Kerr inquired if House Floor Amendment No. 1 to the House Committee Substitute was germane to **SB 265**. The Speaker ruled that House Floor Amendment No. 1 to the House Committee Substitute was germane to **SB 265**. Representative Treesh inquired if House Floor Amendment No. 1 to the House Committee Substitute was a piggyback to **SB 265**. The Speaker stated that House Floor Amendment No. 1 to the House Committee Substitute to **SB 265** was not identified as a piggyback. Representative D. Butler moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 265**. On the roll call on House Floor Amendment No. 1 to the House Committee Substitute to **SB 265** the vote was: Yeas 46, Nays 27 (See April 1, 1998, roll call on - Appendix.) House Floor Amendment No. 1 to the House Committee Substitute to **SB 265** was adopted.

Representative Rasche moved that **SB 265**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See April 1, 1998 roll call on **SB 265** - Appendix.) **SB 265**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Rasche moved that the vote by which **SB 265**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

A Free Conference Committee Report was filed on **SB 21**.

Representative Stumbo moved that the rules be suspended to act on **SB 374**. Agreed.

SB 374 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 374** be passed.

On the roll call the vote was: Yeas 81, Nays 2 (See April 1, 1998 roll call on **SB 374** - Appendix.) **SB 374** was passed and the title agreed to. Representative Burch moved that the vote by which **SB 374** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act on **SB 303**. Agreed.

SB 303, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the House Committee Substitute to **SB 303**. Agreed.

Representative Gooch moved that **SB 303**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See April 1, 1998 roll call on **SB 303** - Appendix.) **SB 303**, by way of House Committee Substitute, was passed and the title agreed to. Representative Gooch moved that the vote by which **SB 303**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SCR 126**. Agreed.

SCR 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **SCR 126** be adopted.

On the roll call the vote was: Yeas 87, Nays 0 (See April 1, 1998 roll call on **SCR 126** - Appendix.) **SCR 126** was adopted. Representative Curd moved that the vote by which **SCR 126** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 263**. Agreed.

SB 263 taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that it be placed back in the Orders of the Day. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 53**. Agreed.

SB 53, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **SB 53**. Agreed.

Representative Coleman moved that **SB 53**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 82, Nays 5 (See April 1, 1998 roll call on **SB 53** - Appendix.) **SB 53**, by way of House Committee Substitute, was passed and the title agreed to. Representative Coleman moved that the vote by which **SB 53**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 396**. Agreed.

SB 396, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Floor Amendment No. 1 to **SB 396**. Agreed.

Representative Ford moved that **SB 396**, as amended, be passed.

On the roll call the vote was: Yeas 60, Nays 25 (See April 1, 1998 roll call on **SB 396** - Appendix.) **SB 396**, as amended, was passed and the title agreed to. Representative Ford moved that the vote by which **SB 396**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 21**. Agreed.

SB 21 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **SB 21**. Agreed.

The Free Conference Committee on **SB 21** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 21**, House Committee Amendment No. 1 to **SB 21**, House Committee Amendment No. 2\Title to **SB 21**, and the following changes:

On page 1, line 12, after "***8***" by deleting "***to 10***"; and

On page 4, line 6, after "***8***" by deleting "***to 10***"; and

On page 12, line 18, after "***6***" by deleting "***,***" and inserting in lieu thereof "***and***"; and

On page 12, lines 18 and 19, after "***8***" by deleting "***, and 9***"; and

On page 14, line 1, after "***general fund***", by deleting "***to the literacy development grant program fund***" and inserting in lieu thereof:

"***as follows:***

(a) To the Collaborative Center for Literacy Development and one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

(b) To the early reading incentive fund one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter."; and

On page 14, by deleting line 2 in its entirety; and

On page 14, line 3, after "***to***", by deleting "***the***"; and

On page 14, line 4, after "***development***", by deleting "***grant program fund***"; and

On page 15, by deleting lines 22 through 27 in their entirety; and

By deleting pages 16 and 17 in their entirety; and

On page 18, by deleting lines 1 through 7 in their entirety; and

On page 18, line 8 , by renumbering "Section 10" to Section 8".

Signed April 1, 1998: Senators Tim Shaughnessy, Nick Kafoglis, Robert J. Leeper, Gex Williams, and Jack Westwood; and Representatives Harry Moberly, Jr., Jimmie Lee, and Lonnie Napier.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **SB 21**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See April 1, 1998 roll call on **SB 21** - Appendix.) **SB 21**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative Moberly moved that the vote by which **SB 21**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 186.** Agreed.

SB 186, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 2 to **SB 186**. Agreed.

Representative Moberly moved that **SB 186**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 0 (See April 1, 1998 roll call on **SB 186** - Appendix.) **SB 186**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **SB 186**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 263 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 263** be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See April 1, 1998 roll call on **SB 263** - Appendix.) **SB 263** was passed and the title agreed to. Representative Marzian moved that the vote by which **SB 263** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 221 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that the House recede from its Committee Amendment No. 1 to **SB 221**. Agreed.

Representative Haydon moved that **SB 221** be passed.

On the roll call the vote was Yeas 89, Nays 1 (See April 1, 1998 roll call on **SB 221** - Appendix) **SB 221** was passed and the title agreed to. Representative Haydon moved that the vote by which **SB 221** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 224, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that the House refuse to recede from House Floor Amendment No. 1. Agreed.

HJR 92, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 92** is as follows:

A JOINT RESOLUTION establishing the additional four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly.

WHEREAS, the statutes of the Commonwealth require a highway construction plan to be presented to the General

Assembly that details those projects that will be presented for construction by the Department of Highways in future years; and

WHEREAS, the General Assembly recognizes the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads in the Six Year Road Plan will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring that road projects are planned and built in a conscientious manner is to adopt projects scheduled for funding during the biennium in the budget memorandum and the projects scheduled for funding in the last four (4) years of the road plan in a joint resolution; and

WHEREAS, the General Assembly in adoption of this resolution is committed to working with the Department of Highways to develop a balanced and workable six (6) year road plan;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The projects authorized by the General Assembly in this Resolution constitute the official four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly. The following projects shall be the 2001-2004 additional four (4) year highway construction plan with project phases not scheduled for completion until after Fiscal Year 2000:

COUNTY	ITEM #	ROUTE	FUND	PHASE	ESTIMATE	FY
ADAIR	08- 159.00	KY-55	STP	CONSTRUCTION	$11,925,000	2001
ADAIR	08- 5005.00	KY-6172	SP	DESIGN	$35,000	2002
ADAIR	08- 5005.00	KY-6172	SP	RIGHT OF WAY	$10,000	2003
ALLEN	03- 146.11	US-231	STP	CONSTRUCTION	$7,000,000	2001
ALLEN	03- 146.40	US-231	STP	RIGHT OF WAY	$4,000,000	2001
ALLEN	03- 146.40	US-231	STP	UTILITIES	$3,500,000	2002
ALLEN	03- 146.41	US-231	STP	CONSTRUCTION	$8,000,000	2003
ANDERSON	07- 304.01	US-127	SP	RIGHT OF WAY	$1,500,000	2001
ANDERSON	07- 304.01	US-127	SP	UTILITIES	$1,000,000	2002
ANDERSON	07- 346.00	KY-44	STP	CONSTRUCTION	$2,000,000	2001
ANDERSON	07- 2008.00	BG-9002	SP	DESIGN	$60,000	2002
ANDERSON	07- 2008.00	BG-9002	SP	CONSTRUCTION	$3,750,000	2004
BALLARD	01- 23.00	I-66	NH	DESIGN	$500,000	2002
BALLARD	01- 115.00	US-60	SP	DESIGN	$750,000	2003
BALLARD	01- 185.00	US-51	NH	CONSTRUCTION	$2,500,000	2003
BARREN	03- 185.00	KY-70	KYD	CONSTRUCTION	$7,870,000	2002
BARREN	03- 192.01	-	SP	RIGHT OF WAY	$2,000,000	2002
BARREN	03- 192.01	-	SP	UTILITIES	$2,000,000	2004
BARREN	03- 192.20	-	SP	CONSTRUCTION	$10,000,000	2001
BARREN	03- 2002.00	I-65	IM	CONSTRUCTION	$2,500,000	2002
BARREN	03- 7000.00	-	SP	RIGHT OF WAY	$1,200,000	2001
BARREN	03- 7000.00	-	SP	UTILITIES	$800,000	2002
BATH	09- 127.00	KY-36	SP	DESIGN	$400,000	2003
BATH	09- 2001.00	I-64	IM	DESIGN	$80,000	2001
BATH	09- 2001.00	I-64	IM	CONSTRUCTION	$5,000,000	2003
BATH	09- 2002.00	I-64	IM	DESIGN	$180,000	2003
BATH	09- 5002.00	I-64	SP	DESIGN	$40,000	2001
BATH	09- 5002.00	I-64	SP	CONSTRUCTION	$400,000	2002
BATH	09- 5003.00	I-64	SP	DESIGN	$60,000	2001
BATH	09- 5003.00	I-64	SP	CONSTRUCTION	$900,000	2002
BELL	11- 57.00	US-119	NH	RIGHT OF WAY	$125,000	2001
BELL	11- 57.00	US-119	NH	UTILITIES	$60,000	2001

BELL	11- 57.00	US-119	NH	CONSTRUCTION	$2,000,000	2002
BELL	11- 135.00	KY-92	SP	DESIGN	$300,000	2002
BELL	11- 214.40	US-25E	SP	CONSTRUCTION	$1,250,000	2001
BELL	11- 214.50	US-25E	SP	CONSTRUCTION	$1,250,000	2002
BELL	11- 214.51	US-25E	SP	CONSTRUCTION	$1,250,000	2003
BELL	11- 214.52	US-25E	SP	CONSTRUCTION	$1,250,000	2004
BELL	11- 217.00	KY-66	SP	DESIGN	$40,000	2001
BELL	11- 217.00	KY-66	STP	RIGHT OF WAY	$1,500,000	2003
BELL	11- 1033.00	KY-2013	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1034.00	KY-988	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1044.00	CR-1212	BRZ	CONSTRUCTION	$250,000	2001
BELL	11- 1050.00	KY-1491	BRX	RIGHT OF WAY	$52,000	2002
BELL	11- 1050.00	KY-1491	BRX	UTILITIES	$10,000	2002
BOONE	06- 12.23	I-275	IM	CONSTRUCTION	$2,000,000	2001
BOONE	06- 64.01	US-42	STP	UTILITIES	$1,550,000	2001
BOONE	06- 64.01	US-42	STP	CONSTRUCTION	$8,000,000	2002
BOONE	06- 101.00	KY-536	SAF	CONSTRUCTION	$3,600,000	2001
BOONE	06- 116.00	-	SP	CONSTRUCTION	$1,400,000	2001
BOONE	06- 146.00	-	SP	CONSTRUCTION	$500,000	2001
BOONE	06- 316.01	KY-1017	SP	RIGHT OF WAY	$1,500,000	2001
BOONE	06- 316.01	KY-1017	SP	UTILITIES	$1,000,000	2003
BOONE	06- 331.01	-	CM	CONSTRUCTION	$500,000	2001
BOONE	06- 331.02	-	CM	CONSTRUCTION	$1,700,000	2004
BOONE	06- 351.00	US-25	STP	DESIGN	$750,000	2002
BOONE	06- 351.00	US-25	STP	RIGHT OF WAY	$2,000,000	2004
BOONE	06- 1039.00	-	CM	CONSTRUCTION	$50,000	2001
BOONE	06- 1044.02	-	CM	CONSTRUCTION	$1,250,000	2001
BOONE	06- 1044.03	-	CM	CONSTRUCTION	$1,500,000	2002
BOONE	06- 1044.04	-	CM	CONSTRUCTION	$1,700,000	2003
BOONE	06- 1044.05	-	CM	CONSTRUCTION	$1,500,000	2004
BOONE	06- 2002.00	I-275	IM	CONSTRUCTION	$12,100,000	2001
BOONE	06- 2004.00	I-71	IM	CONSTRUCTION	$2,600,000	2001
BOONE	06- 5001.00	US-42	SP	CONSTRUCTION	$512,500	2001
BOURBON	07- 310.01	US-68	NH	CONSTRUCTION	$14,000,000	2001
BOURBON	07- 310.02	US-68	NH	CONSTRUCTION	$8,000,000	2001
BOURBON	07- 310.03	US-68	NH	CONSTRUCTION	$4,000,000	2002
BOYD	09- 112.00	US-23S	NH	CONSTRUCTION	$2,000,000	2004
BOYD	09- 129.00	-	STP	DESIGN	$1,000,000	2001
BOYD	09- 141.00	KY-5	SP	DESIGN	$300,000	2004
BOYD	09- 176.00	US-23	NH	UTILITIES	$100,000	2001
BOYD	09- 176.00	US-23	NH	CONSTRUCTION	$720,000	2002
BOYD	09- 212.31	-	SP	CONSTRUCTION	$5,000,000	2004
BOYD	09- 275.00	US-60	STP	CONSTRUCTION	$2,900,000	2001
BOYD	09- 5005.00	US-23	SP	DESIGN	$50,000	2002
BOYD	09- 5005.00	US-23	SP	RIGHT OF WAY	$15,000	2003
BOYD	09- 5005.00	US-23	SP	UTILITIES	$20,000	2003
BOYLE	07- 210.00	KY-2168	SP	DESIGN	$600,000	2002

BOYLE	07- 210.00	KY-2168	SP	RIGHT OF WAY	$3,600,000	2004
BOYLE	07- 211.00	US-150B	SP	RIGHT OF WAY	$800,000	2002
BOYLE	07- 211.00	US-150B	SP	UTILITIES	$300,000	2003
BRACKEN	06- 355.03	-	SP	CONSTRUCTION	$125,000	2001
BRACKEN	06- 355.04	-	SP	CONSTRUCTION	$125,000	2002
BRACKEN	06- 355.05	-	SP	CONSTRUCTION	$125,000	2003
BRACKEN	06- 355.06	-	SP	CONSTRUCTION	$125,000	2004
BREATHITT	10- 270.11	KY-15	NH	CONSTRUCTION	$4,000,000	2002
BREATHITT	10- 270.12	KY-15	NH	CONSTRUCTION	$9,000,000	2003
BREATHITT	10- 270.20	KY-15	SP	UTILITIES	$1,500,000	2001
BREATHITT	10- 285.01	KY-15	NH	RIGHT OF WAY	$7,310,000	2001
BREATHITT	10- 285.01	KY-15	NH	UTILITIES	$925,000	2003
BREATHITT	10- 286.01	KY-15	NH	RIGHT OF WAY	$10,500,000	2001
BREATHITT	10- 286.01	KY-15	NH	UTILITIES	$1,700,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	DESIGN	$100,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	RIGHT OF WAY	$40,000	2004
BRECKINRIDGE	04- 1048.00	KY-992	BRX	CONSTRUCTION	$300,000	2002
BULLITT	05- 117.00	KY-61	STP	RIGHT OF WAY	$5,000,000	2001
BULLITT	05- 117.00	KY-61	STP	UTILITIES	$2,000,000	2003
BULLITT	05- 117.00	KY-61	STP	CONSTRUCTION	$10,000,000	2004
BULLITT	05- 347.50	KY-44	STP	DESIGN	$1,000,000	2004
BULLITT	05- 2008.00	I-65	IM	CONSTRUCTION	$600,000	2002
BULLITT	05- 5004.00	KY-44	SP	DESIGN	$65,000	2001
BULLITT	05- 5004.00	KY-44	SP	RIGHT OF WAY	$75,000	2002
BULLITT	05- 5004.00	KY-44	SP	CONSTRUCTION	$500,000	2003
BUTLER	03- 5000.00	US-231	SP	CONSTRUCTION	$180,000	2002
CALDWELL	02- 2011.00	WK-9001	SP	DESIGN	$70,000	2003
CALDWELL	02- 2011.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2004
CALDWELL	02- 5005.00	WK-9001	SP	RIGHT OF WAY	$50,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	UTILITIES	$10,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	CONSTRUCTION	$1,100,000	2002
CALLOWAY	01- 181.11	US-68	SP	CONSTRUCTION	$16,000,000	2001
CALLOWAY	01- 181.14	US-68	SP	CONSTRUCTION	$16,000,000	2002
CALLOWAY	01- 181.21	KY-80	SP	UTILITIES	$1,210,000	2002
CALLOWAY	01- 181.22	KY-80	SP	UTILITIES	$3,300,000	2002
CALLOWAY	01- 181.22	KY-80	SP	CONSTRUCTION	$6,000,000	2004
CALLOWAY	01- 181.30	KY-80	SP	UTILITIES	$2,870,000	2001
CALLOWAY	01- 181.30	KY-80	SP	CONSTRUCTION	$12,000,000	2003
CALLOWAY	01- 181.31	KY-80	SP	UTILITIES	$3,300,000	2001
CALLOWAY	01- 181.31	KY-80	SP	CONSTRUCTION	$6,000,000	2003
CALLOWAY	01- 181.35	KY-80	SP	CONSTRUCTION	$14,000,000	2004
CALLOWAY	01- 314.00	US-641	SP	DESIGN	$1,800,000	2002
CALLOWAY	01- 1127.00	KY-280	BRX	CONSTRUCTION	$450,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1128.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	CONSTRUCTION	$700,000	2003
CALLOWAY	01- 1129.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001

CALLOWAY	01- 1129.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1129.00	KY-1824	BRX	CONSTRUCTION	$1,000,000	2003
CAMPBELL	06- 6.00	I-471	IM	CONSTRUCTION	$3,000,000	2002
CAMPBELL	06- 46.20	US-27	SP	CONSTRUCTION	$12,000,000	2002
CAMPBELL	06- 125.00	KY-2938	SP	DESIGN	$600,000	2003
CAMPBELL	06- 352.00	KY-536	SP	DESIGN	$600,000	2001
CAMPBELL	06- 352.00	KY-536	STP	RIGHT OF WAY	$7,000,000	2003
CAMPBELL	06- 1029.00	KY-1120	BRO	UTILITIES	$500,000	2001
CAMPBELL	06- 1029.00	KY-1120	BRO	CONSTRUCTION	$2,800,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	RIGHT OF WAY	$100,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	CONSTRUCTION	$3,000,000	2003
CAMPBELL	06- 5004.00	I-275	SP	DESIGN	$180,000	2001
CAMPBELL	06- 5004.00	I-275	SP	CONSTRUCTION	$1,500,000	2002
CAMPBELL	06- 5005.00	I-275	SP	DESIGN	$210,000	2001
CAMPBELL	06- 5005.00	I-275	NH	CONSTRUCTION	$1,750,000	2002
CAMPBELL	06- 5006.00	I-471	SP	DESIGN	$100,000	2001
CAMPBELL	06- 5006.00	I-471	SP	CONSTRUCTION	$1,000,000	2002
CARLISLE	01- 183.00	US-51	STP	DESIGN	$600,000	2002
CARLISLE	01- 1119.00	US-62	BRO	RIGHT OF WAY	$150,000	2001
CARLISLE	01- 1119.00	US-62	BRO	UTILITIES	$160,000	2001
CARLISLE	01- 1119.00	US-62	BRO	CONSTRUCTION	$600,000	2003
CARROLL	06- 12.25	I-71	IM	CONSTRUCTION	$700,000	2001
CARROLL	06- 147.00	US-42	SP	CONSTRUCTION	$5,000,000	2001
CARROLL	06- 347.00	KY-389	BRX	RIGHT OF WAY	$100,000	2001
CARROLL	06- 347.00	KY-389	BRX	UTILITIES	$75,000	2001
CARROLL	06- 347.00	KY-389	BRX	CONSTRUCTION	$850,000	2002
CARROLL	06- 5009.00	I-71	SP	DESIGN	$90,000	2003
CARTER	09- 144.00	-	SP	DESIGN	$225,000	2003
CARTER	09- 159.00	US-60	STP	UTILITIES	$300,000	2001
CARTER	09- 159.00	US-60	STP	CONSTRUCTION	$3,375,000	2003
CARTER	09- 1041.00	KY-1947	BRX	RIGHT OF WAY	$50,000	2001
CARTER	09- 1041.00	KY-1947	BRX	UTILITIES	$45,000	2001
CARTER	09- 1041.00	KY-1947	BRX	CONSTRUCTION	$345,000	2003
CARTER	09- 2003.00	I-64	IM	DESIGN	$50,000	2004
CARTER	09- 5004.00	US-60	SP	DESIGN	$65,000	2001
CARTER	09- 5004.00	US-60	SP	RIGHT OF WAY	$20,000	2002
CARTER	09- 5004.00	US-60	SP	UTILITIES	$40,000	2002
CARTER	09- 5004.00	US-60	SP	CONSTRUCTION	$800,000	2003
CASEY	08- 142.00	KY-70	SP	DESIGN	$500,000	2004
CASEY	08- 164.00	US-127	STP	DESIGN	$150,000	2001
CASEY	08- 164.00	US-127	STP	RIGHT OF WAY	$200,000	2002
CASEY	08- 164.00	US-127	STP	UTILITIES	$100,000	2002
CASEY	08- 164.00	US-127	STP	CONSTRUCTION	$600,000	2003
CASEY	08- 5002.00	US-127	SP	DESIGN	$50,000	2001
CASEY	08- 5002.00	US-127	SP	RIGHT OF WAY	$12,000	2002
CASEY	08- 5002.00	US-127	SP	CONSTRUCTION	$280,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	RIGHT OF WAY	$5,000,000	2002

CHRISTIAN	02- 100.00	PE-9004	NH	UTILITIES	$2,000,000	2003
CHRISTIAN	02- 100.00	PE-9004	NH	CONSTRUCTION	$19,000,000	2004
CHRISTIAN	02- 213.00	I-24	IM	DESIGN	$500,000	2001
CHRISTIAN	02- 213.00	I-24	IM	RIGHT OF WAY	$1,000,000	2003
CHRISTIAN	02- 213.00	I-24	IM	UTILITIES	$750,000	2004
CHRISTIAN	02- 308.00	US-41A	NH	CONSTRUCTION	$10,000,000	2001
CHRISTIAN	02- 311.00	US-41A	NH	CONSTRUCTION	$11,000,000	2002
CHRISTIAN	02- 311.01	UA-41A	NH	UTILITIES	$2,000,000	2001
CHRISTIAN	02- 2000.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
CHRISTIAN	02- 7000.00	-	SP	CONSTRUCTION	$8,000,000	2001
CHRISTIAN	02- 7010.00	-	SP	CONSTRUCTION	$2,000,000	2001
CLARK	07- 314.00	KY-1958	SP	DESIGN	$200,000	2003
CLARK	07- 331.01	-	SP	RIGHT OF WAY	$3,000,000	2001
CLARK	07- 331.01	-	SP	UTILITIES	$2,635,000	2002
CLARK	07- 331.01	-	SP	CONSTRUCTION	$10,000,000	2003
CLARK	07- 1080.00	CR-1210	BRZ	CONSTRUCTION	$350,000	2001
CLARK	07- 2001.00	I-64	IM	CONSTRUCTION	$2,000,000	2002
CLARK	07- 2002.00	I-64	IM	CONSTRUCTION	$3,100,000	2002
CLARK	07- 2010.00	KY-9000	SP	DESIGN	$150,000	2003
CLARK	07- 2010.00	KY-9000	SP	CONSTRUCTION	$7,360,000	2004
CLAY	11- 273.01	US-421	SP	RIGHT OF WAY	$5,600,000	2002
CLAY	11- 273.01	US-421	SP	UTILITIES	$2,700,000	2004
CLAY	11- 1035.00	US-421	BRO	CONSTRUCTION	$800,000	2002
CLAY	11- 2005.00	DB-9006	SP	DESIGN	$90,000	2002
CLAY	11- 2006.00	DB-9006	SP	DESIGN	$50,000	2002
CLAY	11- 2006.00	DB-9006	SP	CONSTRUCTION	$5,000,000	2003
CLAY	11- 4087.00	CR-1118	SP	CONSTRUCTION	$800,000	2001
CLAY	11- 5000.00	KY-11	SP	RIGHT OF WAY	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	UTILITIES	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	CONSTRUCTION	$420,500	2002
CLAY	11- 5005.00	KY-66	SP	DESIGN	$80,000	2003
CLAY	11- 5005.00	KY-66	SP	RIGHT OF WAY	$20,000	2004
CLAY	11- 5005.00	KY-66	SP	UTILITIES	$20,000	2004
CLAY	11- 5006.00	KY-80	SP	DESIGN	$50,000	2004
CLINTON	08- 165.00	US-127	SP	UTILITIES	$2,500,000	2001
CLINTON	08- 165.00	US-127	SP	CONSTRUCTION	$7,000,000	2002
CLINTON	08- 260.02	US-127	SP	CONSTRUCTION	$7,000,000	2001
CLINTON	08- 260.10	US-127	STP	RIGHT OF WAY	$2,500,000	2001
CLINTON	08- 260.10	US-127	STP	UTILITIES	$3,000,000	2003
CLINTON	08- 260.10	US-127	STP	CONSTRUCTION	$8,500,000	2004
CLINTON	08- 1015.00	KY-1076	BRX	RIGHT OF WAY	$250,000	2003
CLINTON	08- 1015.00	KY-1076	BRX	UTILITIES	$150,000	2004
CRITTENDEN	01- 187.00	US-641	SP	DESIGN	$400,000	2001
CRITTENDEN	01- 250.01	US-60	SP	RIGHT OF WAY	$2,000,000	2001
CRITTENDEN	01- 250.01	US-60	SP	UTILITIES	$1,000,000	2002
CRITTENDEN	01- 250.01	US-60	SP	CONSTRUCTION	$14,000,000	2004
CRITTENDEN	01- 267.01	US-60	SP	RIGHT OF WAY	$1,200,000	2002

CRITTENDEN	01- 267.01	US-60	SP	UTILITIES	$1,520,000	2003
CRITTENDEN	01- 325.00	KY-91	SP	CONSTRUCTION	$262,000	2001
CRITTENDEN	01- 326.00	KY-91	SP	CONSTRUCTION	$262,000	2002
CRITTENDEN	01- 326.01	KY-91	SP	CONSTRUCTION	$262,000	2003
CRITTENDEN	01- 326.02	KY-91	SP	CONSTRUCTION	$262,000	2004
CUMBERLAND	08- 158.04	KY-61	SP	RIGHT OF WAY	$8,000,000	2001
CUMBERLAND	08- 158.04	KY-61	SP	UTILITIES	$7,000,000	2002
DAVIESS	02- 179.00	US-231	STP	CONSTRUCTION	$2,500,000	2004
DAVIESS	02- 221.00	KY-2121	SP	DESIGN	$750,000	2002
DAVIESS	02- 221.00	KY-2121	SP	RIGHT OF WAY	$780,000	2004
DAVIESS	02- 287.00	US-60	STP	RIGHT OF WAY	$4,000,000	2003
DAVIESS	02- 287.00	US-60	STP	UTILITIES	$2,500,000	2004
DAVIESS	02- 2012.00	US-60B	SP	CONSTRUCTION	$3,600,000	2001
EDMONSON	03- 140.00	KY-101	SP	RIGHT OF WAY	$750,000	2002
EDMONSON	03- 140.00	KY-101	SP	UTILITIES	$500,000	2002
EDMONSON	03- 140.00	KY-101	SP	CONSTRUCTION	$5,000,000	2004
EDMONSON	03- 141.00	KY-70	SP	RIGHT OF WAY	$300,000	2001
EDMONSON	03- 141.00	KY-70	SP	UTILITIES	$200,000	2001
EDMONSON	03- 141.00	KY-70	SP	CONSTRUCTION	$2,000,000	2002
EDMONSON	03-7010.00	KY-259	SP	DESIGN	$300,000	2002
EDMONSON	03-7010.00	KY-259	SP	RIGHT OF WAY	$400,000	2003
EDMONSON	03-7030.00	KY-259	SP	DESIGN	$6,300,000	2003
ELLIOTT	09- 126.00	KY-7	SP	RIGHT OF WAY	$2,000,000	2001
ELLIOTT	09- 126.00	KY-7	SP	UTILITIES	$850,000	2001
ELLIOTT	09- 126.00	KY-7	SP	CONSTRUCTION	$8,000,000	2002
ELLIOTT	09- 126.50	KY-7	STP	RIGHT OF WAY	$3,500,000	2001
ELLIOTT	09- 126.50	KY-7	STP	UTILITIES	$1,000,000	2002
ELLIOTT	09- 293.01	KY-7	SP	DESIGN	$400,000	2002
ELLIOTT	09- 293.01	KY-7	SP	RIGHT OF WAY	$1,000,000	2004
ELLIOTT	09- 293.01	KY-7	SP	UTILITIES	$750,000	2004
ELLIOTT	09- 1039.00	KY-706	BRX	RIGHT OF WAY	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	UTILITIES	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	CONSTRUCTION	$230,000	2002
ESTILL	10- 363.00	KY-89	SP	RIGHT OF WAY	$2,200,000	2001
ESTILL	10- 363.00	KY-89	SP	UTILITIES	$1,000,000	2003
ESTILL	10- 364.00	KY-82	SP	RIGHT OF WAY	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	UTILITIES	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	CONSTRUCTION	$800,000	2004
ESTILL	10- 1040.00	KY-594	BRX	RIGHT OF WAY	$100,000	2001
ESTILL	10- 1040.00	KY-594	BRX	UTILITIES	$75,000	2001
ESTILL	10- 1040.00	KY-594	BRX	CONSTRUCTION	$250,000	2002
ESTILL	10- 1045.00	CR-5323	BRZ	CONSTRUCTION	$275,000	2001
ESTILL	10- 1053.00	KY-594	BRX	CONSTRUCTION	$150,000	2001
ESTILL	10- 5001.00	KY-89	SP	CONSTRUCTION	$262,700	2001
FAYETTE	07- 122.00	US-25	STP	RIGHT OF WAY	$4,300,000	2001
FAYETTE	07- 122.00	US-25	STP	UTILITIES	$3,000,000	2002
FAYETTE	07- 125.20	KY-4	STP	DESIGN	$200,000	2003

FAYETTE	07- 144.00	US-68	SP	DESIGN	$400,000	2004
FAYETTE	07- 325.01	US-25	SP	UTILITIES	$3,090,000	2001
FAYETTE	07- 325.01	US-25	SP	CONSTRUCTION	$2,500,000	2002
FAYETTE	07- 329.00	KY-922	STP	CONSTRUCTION	$9,200,000	2003
FAYETTE	07- 356.00	KY-169	SP	CONSTRUCTION	$125,000	2001
FAYETTE	07- 357.00	KY-169	SP	CONSTRUCTION	$125,000	2002
FAYETTE	07- 357.01	KY-169	SP	CONSTRUCTION	$125,000	2003
FAYETTE	07- 357.02	KY-169	SP	CONSTRUCTION	$125,000	2004
FAYETTE	07- 362.00	KY-4	STP	DESIGN	$250,000	2002
FAYETTE	07- 996.05	-	SLX	CONSTRUCTION	$5,800,000	2001
FAYETTE	07- 996.06	-	SLX	CONSTRUCTION	$5,800,000	2002
FAYETTE	07- 996.07	-	SLX	CONSTRUCTION	$5,800,000	2003
FAYETTE	07- 996.08	-	SLX	CONSTRUCTION	$5,800,000	2004
FAYETTE	07- 1071.00	CR-9999	BRO	CONSTRUCTION	$715,000	2001
FAYETTE	07- 1088.00	KY-1970	BRX	RIGHT OF WAY	$100,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	UTILITIES	$40,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	CONSTRUCTION	$200,000	2004
FAYETTE	07- 5004.00	US-421	SP	DESIGN	$80,000	2002
FAYETTE	07- 5004.00	US-421	SP	CONSTRUCTION	$750,000	2003
FLEMING	09- 174.50	KY-11	STP	RIGHT OF WAY	$750,000	2001
FLEMING	09- 174.50	KY-11	STP	UTILITIES	$500,000	2001
FLEMING	09- 174.50	KY-11	STP	CONSTRUCTION	$10,500,000	2003
FLOYD	12- 108.00	US-23	SP	DESIGN	$150,000	2004
FLOYD	12- 282.00	KY-122	SP	UTILITIES	$200,000	2001
FLOYD	12- 282.00	KY-122	SP	CONSTRUCTION	$2,250,000	2002
FLOYD	12- 293.00	KY-1428	STP	CONSTRUCTION	$3,000,000	2001
FLOYD	12- 301.00	KY-979	SP	UTILITIES	$2,000,000	2001
FLOYD	12- 301.00	KY-979	SP	CONSTRUCTION	$11,000,000	2003
FLOYD	12- 301.10	KY-680	SP	RIGHT OF WAY	$3,500,000	2001
FLOYD	12- 301.10	KY-680	SP	UTILITIES	$3,500,000	2001
FLOYD	12- 301.20	KY-979	SP	DESIGN	$1,200,000	2002
FLOYD	12- 301.20	KY-979	SP	RIGHT OF WAY	$3,500,000	2003
FLOYD	12- 402.00	KY-3384	SP	CONSTRUCTION	$2,100,000	2001
FLOYD	12- 1039.00	KY-550	BRO	CONSTRUCTION	$1,000,000	2002
FLOYD	12- 1040.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1041.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1047.00	CR-1390	BRZ	CONSTRUCTION	$600,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	DESIGN	$100,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	RIGHT OF WAY	$60,000	2003
FLOYD	12- 1060.00	CR-1265	BRZ	UTILITIES	$200,000	2003
FLOYD	12- 5004.00	KY-80	SP	RIGHT OF WAY	$20,000	2001
FLOYD	12- 5004.00	KY-80	SP	CONSTRUCTION	$800,000	2002
FLOYD	12- 5007.00	KY-80	SP	DESIGN	$210,000	2002
FLOYD	12- 5007.00	KY-80	SP	RIGHT OF WAY	$45,000	2003
FLOYD	12- 5009.00	KY-321	SP	DESIGN	$200,000	2004
FRANKLIN	05- 97.50	US-60	STP	RIGHT OF WAY	$800,000	2002
FRANKLIN	05- 97.50	US-60	STP	UTILITIES	$500,000	2004

FRANKLIN	05- 305.01	US-421	STP	RIGHT OF WAY	$800,000	2001
FRANKLIN	05- 305.01	US-421	STP	UTILITIES	$600,000	2003
FRANKLIN	05- 305.01	US-421	STP	CONSTRUCTION	$8,000,000	2004
FRANKLIN	05- 372.00	US-460	STP	RIGHT OF WAY	$4,500,000	2001
FRANKLIN	05- 372.00	US-460	STP	UTILITIES	$1,000,000	2003
FRANKLIN	05- 372.00	US-460	STP	CONSTRUCTION	$11,500,000	2004
FRANKLIN	05- 2005.00	I-64	IM	DESIGN	$210,000	2001
FRANKLIN	05- 2005.00	I-64	IM	CONSTRUCTION	$13,900,000	2003
FRANKLIN	05- 2023.00	US-60	SP	DESIGN	$50,000	2004
FRANKLIN	05- 5002.00	US-421	SP	DESIGN	$80,000	2001
FRANKLIN	05- 5002.00	US-421	SP	CONSTRUCTION	$750,000	2002
FRANKLIN	05- 5007.00	KY-1900	SP	DESIGN	$60,000	2004
FULTON	01- 319.00	KY-1354	SP	CONSTRUCTION	$125,000	2001
FULTON	01- 320.00	KY-1354	SP	CONSTRUCTION	$125,000	2002
FULTON	01- 320.01	KY-1354	SP	CONSTRUCTION	$125,000	2003
FULTON	01- 320.02	KY-1354	SP	CONSTRUCTION	$125,000	2004
FULTON	01- 1118.00	US-45	BRO	RIGHT OF WAY	$200,000	2001
FULTON	01- 1118.00	US-45	BRO	UTILITIES	$605,000	2001
FULTON	01- 1118.00	US-45	BRO	CONSTRUCTION	$1,200,000	2003
FULTON	01- 2008.00	PU-9003	SP	CONSTRUCTION	$900,000	2001
GALLATIN	06- 202.00	US-42	SP	RIGHT OF WAY	$250,000	2001
GALLATIN	06- 202.00	US-42	SP	UTILITIES	$100,000	2002
GALLATIN	06- 202.00	US-42	SP	CONSTRUCTION	$5,700,000	2003
GALLATIN	06- 333.01	-	STP	CONSTRUCTION	$10,000,000	2001
GALLATIN	06- 333.02	-	STP	CONSTRUCTION	$10,000,000	2004
GALLATIN	06- 2005.00	I-71	IM	CONSTRUCTION	$3,300,000	2004
GALLATIN	06- 2006.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GALLATIN	06- 2007.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GARRARD	07- 26.01	US-27	NH	RIGHT OF WAY	$3,500,000	2001
GARRARD	07- 26.01	US-27	NH	UTILITIES	$1,500,000	2002
GARRARD	07- 26.01	US-27	NH	CONSTRUCTION	$12,000,000	2003
GARRARD	07- 26.02	US-27	NH	CONSTRUCTION	$4,000,000	2004
GARRARD	07- 302.03	KY-52	STP	CONSTRUCTION	$3,800,000	2002
GARRARD	07- 302.04	KY-52	STP	CONSTRUCTION	$7,453,000	2001
GRANT	06- 72.02	I-75	IM	CONSTRUCTION	$12,000,000	2001
GRANT	06- 72.03	I-75	NH	CONSTRUCTION	$9,000,000	2001
GRANT	06- 72.04	I-75	IM	CONSTRUCTION	$6,000,000	2002
GRANT	06- 72.05	I-75	NH	CONSTRUCTION	$17,000,000	2002
GRANT	06- 72.12	I-75	IM	CONSTRUCTION	$16,000,000	2004
GRANT	06- 72.13	I-75	NH	CONSTRUCTION	$10,000,000	2004
GRANT	06- 339.00	I-75	STP	CONSTRUCTION	$7,000,000	2002
GRANT	06- 345.00	-	SP	CONSTRUCTION	$9,200,000	2001
GRANT	06- 345.10	-	SP	UTILITIES	$250,000	2001
GRANT	06- 345.10	-	SP	CONSTRUCTION	$2,500,000	2003
GRANT	06- 5000.00	US-25	SP	CONSTRUCTION	$282,000	2001
GRAYSON	04- 122.00	KY-259	SP	DESIGN	$500,000	2004
GRAYSON	04- 193.00	US-62	SP	RIGHT OF WAY	$500,000	2001

GRAYSON	04- 193.00	US-62	SP	UTILITIES	$300,000	2002
GRAYSON	04- 193.00	US-62	SP	CONSTRUCTION	$3,000,000	2004
GRAYSON	04- 308.00	-	STP	DESIGN	$1,200,000	2003
GRAYSON	04- 1013.01	KY-259	STP	CONSTRUCTION	$10,700,000	2001
GRAYSON	04- 2005.00	WK-9001	NH	DESIGN	$25,000	2002
GRAYSON	04- 2005.00	WK-9001	NH	CONSTRUCTION	$1,200,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	CONSTRUCTION	$4,100,000	2004
GRAYSON	04- 2009.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2009.00	WK-9001	STP	CONSTRUCTION	$4,000,000	2004
GREEN	04- 310.00	-	STP	DESIGN	$800,000	2003
GREENUP	09- 109.00	KY-8S	STP	CONSTRUCTION	$2,500,000	2004
GREENUP	09- 132.00	KY-2	SP	DESIGN	$500,000	2004
GREENUP	09- 212.11	-	SP	CONSTRUCTION	$20,000,000	2001
GREENUP	09- 212.20	-	SP	CONSTRUCTION	$8,000,000	2001
GREENUP	09- 212.21	-	SP	CONSTRUCTION	$12,000,000	2002
GREENUP	09- 212.30	-	SP	CONSTRUCTION	$19,000,000	2003
GREENUP	09- 1028.00	KY-503	BRO	CONSTRUCTION	$630,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	RIGHT OF WAY	$70,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	UTILITIES	$30,000	2002
GREENUP	09- 5001.00	KY-503	SP	RIGHT OF WAY	$100,000	2001
GREENUP	09- 5001.00	KY-503	SP	CONSTRUCTION	$570,000	2002
GREENUP	09- 5006.00	KY-1	SP	DESIGN	$35,000	2003
GREENUP	09- 5006.00	KY-1	SP	RIGHT OF WAY	$10,000	2004
GREENUP	09- 5006.00	KY-1	SP	UTILITIES	$20,000	2004
HANCOCK	02- 125.00	US-60	STP	DESIGN	$150,000	2004
HANCOCK	02- 216.00	CR-1102	BRZ	DESIGN	$50,000	2001
HANCOCK	02- 216.00	CR-1102	BRZ	RIGHT OF WAY	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	UTILITIES	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	CONSTRUCTION	$200,000	2004
HANCOCK	02- 2022.00	US-60	SP	CONSTRUCTION	$1,210,000	2004
HARDIN	04- 189.00	US-31W	SP	CONSTRUCTION	$500,000	2001
HARDIN	04- 190.00	US-31W	SP	UTILITIES	$1,750,000	2001
HARDIN	04- 190.00	US-31W	SP	CONSTRUCTION	$1,720,000	2002
HARDIN	04- 297.10	KY-313	STP	RIGHT OF WAY	$4,500,000	2001
HARDIN	04- 2001.00	I-65	IM	CONSTRUCTION	$1,800,000	2002
HARDIN	04- 2003.00	US-31W	SP	DESIGN	$100,000	2002
HARDIN	04- 2003.00	US-31W	SP	CONSTRUCTION	$4,400,000	2004
HARDIN	04- 2007.00	US-31WB	SP	DESIGN	$85,000	2003
HARDIN	04- 5002.00	US-31W	SP	CONSTRUCTION	$750,000	2002
HARDIN	04- 5003.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5003.00	BG-9002	SP	CONSTRUCTION	$500,000	2003
HARDIN	04- 5004.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5004.00	BG-9002	SP	RIGHT OF WAY	$25,000	2002
HARDIN	04- 5004.00	BG-9002	SP	CONSTRUCTION	$750,000	2003
HARDIN	04- 5005.00	I-65	SP	DESIGN	$100,000	2003
HARLAN	11- 254.00	US-421	SP	UTILITIES	$500,000	2001

HARLAN	11- 254.00	US-421	SP	CONSTRUCTION	$21,000,000	2002
HARLAN	11- 264.20	US-421	SP	CONSTRUCTION	$14,200,000	2001
HARLAN	11- 264.30	US-421	SP	CONSTRUCTION	$10,000,000	2001
HARLAN	11- 264.31	US-421	SP	CONSTRUCTION	$19,000,000	2002
HARLAN	11- 267.11	US-421	SP	DESIGN	$500,000	2003
HARLAN	11- 269.00	US-421	SP	RIGHT OF WAY	$5,500,000	2002
HARLAN	11- 269.00	US-421	SP	UTILITIES	$300,000	2004
HARLAN	11- 1036.00	KY-215	BRX	CONSTRUCTION	$470,000	2001
HARLAN	11- 1038.00	KY-215	BRX	CONSTRUCTION	$700,000	2001
HARLAN	11- 1049.00	KY-1601	BRX	RIGHT OF WAY	$50,000	2002
HARLAN	11- 1049.00	KY-1601	BRX	UTILITIES	$50,000	2002
HARLAN	11- 5003.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5003.00	KY-38	SP	RIGHT OF WAY	$40,000	2003
HARLAN	11- 5003.00	KY-38	SP	UTILITIES	$15,000	2003
HARLAN	11- 5003.00	KY-38	SP	CONSTRUCTION	$1,500,000	2004
HARLAN	11- 5004.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5004.00	KY-38	SP	RIGHT OF WAY	$50,000	2003
HARLAN	11- 5004.00	KY-38	SP	UTILITIES	$20,000	2003
HARLAN	11- 7020.00	-	SP	CONSTRUCTION	$500,000	2002
HARRISON	06- 119.02	US-27	SP	RIGHT OF WAY	$2,400,000	2001
HARRISON	06- 119.02	US-27	SP	UTILITIES	$1,000,000	2002
HARRISON	06- 1043.00	CR-1062	BRZ	DESIGN	$200,000	2002
HART	04- 11.00	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 11.10	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 194.00	US-31W	SP	RIGHT OF WAY	$150,000	2001
HART	04- 194.00	US-31W	SP	UTILITIES	$100,000	2002
HART	04- 194.00	US-31W	SP	CONSTRUCTION	$600,000	2004
HENDERSON	02- 69.00	I-69	SP	DESIGN	$600,000	2002
HENDERSON	02- 79.10	US-60	SP	DESIGN	$1,200,000	2002
HENDERSON	02- 79.10	US-60	STP	RIGHT OF WAY	$2,500,000	2003
HENDERSON	02- 79.02	US-60	STP	RIGHT OF WAY	$4,000,000	2002
HENDERSON	02- 79.02	US-60	STP	UTILITIES	$2,000,000	2003
HENDERSON	02- 101.00	US-60	SAF	CONSTRUCTION	$3,500,000	2002
HENDERSON	02- 126.00	US-60	STP	DESIGN	$200,000	2001
HENDERSON	02- 126.00	US-60	STP	RIGHT OF WAY	$1,000,000	2003
HENDERSON	02- 380.00	US-60	SP	CONSTRUCTION	$600,000	2001
HENDERSON	02- 5000.00	AU-9005	SP	CONSTRUCTION	$285,500	2001
HENDERSON	02- 5001.00	AU-9005	SP	CONSTRUCTION	$350,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	RIGHT OF WAY	$10,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	CONSTRUCTION	$248,500	2002
HENRY	05- 2010.00	I-71	IM	CONSTRUCTION	$1,000,000	2002
HENRY	05- 5000.00	KY-389	SP	CONSTRUCTION	$628,700	2002
HICKMAN	01- 182.00	US-51	STP	DESIGN	$700,000	2002
HICKMAN	01- 1114.00	KY-1698	BRZ	CONSTRUCTION	$300,000	2002
HOPKINS	02- 215.00	KY-70	SP	RIGHT OF WAY	$2,800,000	2001
HOPKINS	02- 215.00	KY-70	SP	UTILITIES	$2,650,000	2002
HOPKINS	02- 2007.00	PE-9004	SP	DESIGN	$80,000	2001

HOPKINS	02- 2007.00	PE-9004	STP	CONSTRUCTION	$5,500,000	2003
HOPKINS	02- 2010.00	PE-9004	SP	DESIGN	$200,000	2003
JACKSON	11- 113.00	US-421	STP	DESIGN	$200,000	2003
JEFFERSON	05- 15.00	I-264	IM	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 21.00	I-265	IM	UTILITIES	$1,000,000	2002
JEFFERSON	05- 21.00	I-265	IM	CONSTRUCTION	$20,000,000	2003
JEFFERSON	05- 23.00	I-64	IM	DESIGN	$1,500,000	2001
JEFFERSON	05- 23.00	I-64	IM	CONSTRUCTION	$7,000,000	2003
JEFFERSON	05- 41.00	I-265	IM	RIGHT OF WAY	$2,000,000	2002
JEFFERSON	05- 41.00	I-265	IM	UTILITIES	$1,000,000	2003
JEFFERSON	05- 52.00	I-64	IM	RIGHT OF WAY	$2,500,000	2003
JEFFERSON	05- 52.00	I-64	IM	UTILITIES	$300,000	2003
JEFFERSON	05- 52.00	I-64	IM	CONSTRUCTION	$8,000,000	2004
JEFFERSON	05- 48.01	I-71	NH	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 48.01	I-71	NH	UTILITIES	$2,000,000	2004
JEFFERSON	05- 76.01	-	STP	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 76.02	-	SLO	CONSTRUCTION	$4,750,000	2001
JEFFERSON	05- 91.02	-	SLO	CONSTRUCTION	$4,000,000	2003
JEFFERSON	05- 110.00	US-31	NH	CONSTRUCTION	$2,500,000	2004
JEFFERSON	05- 118.02	-	SP	DESIGN	$3,000,000	2001
JEFFERSON	05- 118.10	-	SP	DESIGN	$6,000,000	2002
JEFFERSON	05- 118.11	-	SP	DESIGN	$6,000,000	2003
JEFFERSON	05- 118.20	-	SP	RIGHT OF WAY	$6,000,000	2004
JEFFERSON	05- 136.00	I-265	NH	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 247.10	KY-1450	SP	UTILITIES	$3,700,000	2003
JEFFERSON	05- 247.20	KY-1450	SP	DESIGN	$300,000	2002
JEFFERSON	05- 322.00	-	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 322.02	-	SLO	CONSTRUCTION	$10,087,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	UTILITIES	$3,500,000	2002
JEFFERSON	05- 325.01	KY-1447	SP	UTILITIES	$6,500,000	2001
JEFFERSON	05- 325.01	KY-1447	STP	CONSTRUCTION	$15,000,000	2002
JEFFERSON	05- 342.02	-	CM	CONSTRUCTION	$1,800,000	2002
JEFFERSON	05- 344.00	KY-1747	SP	DESIGN	$1,500,000	2003
JEFFERSON	05- 381.00	-	SLO	CONSTRUCTION	$444,000	2001
JEFFERSON	05- 382.00	-	SLO	CONSTRUCTION	$511,000	2002
JEFFERSON	05- 383.00	-	SLO	CONSTRUCTION	$588,000	2003
JEFFERSON	05- 384.00	-	SLO	CONSTRUCTION	$676,000	2004
JEFFERSON	05- 385.00	-	SLO	CONSTRUCTION	$2,000,000	2003
JEFFERSON	05- 386.00	-	SLO	RIGHT OF WAY	$250,000	2001
JEFFERSON	05- 386.00	-	SLO	UTILITIES	$375,000	2003
JEFFERSON	05- 386.00	-	SLO	CONSTRUCTION	$1,500,000	2004
JEFFERSON	05- 387.00	-	SLO	CONSTRUCTION	$1,000,000	2003
JEFFERSON	05- 430.02	KY-1020	SLO	CONSTRUCTION	$4,300,000	2003
JEFFERSON	05- 430.03	KY-1020	SP	CONSTRUCTION	$1,000,000	2001
JEFFERSON	05- 435.10	-	SP	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 965.08	-	SLO	CONSTRUCTION	$14,300,000	2004
JEFFERSON	05- 972.00	KY-42	SP	RIGHT OF WAY	$250,000	2002

JEFFERSON	05- 972.00	KY-42	SP	UTILITIES	$300,000	2002
JEFFERSON	05- 982.00	-	SLO	RIGHT OF WAY	$150,000	2003
JEFFERSON	05- 982.00	-	SLO	UTILITIES	$100,000	2004
JEFFERSON	05- 982.00	-	SLO	CONSTRUCTION	$400,000	2004
JEFFERSON	05- 1006.00	CR-9999	BRZ	CONSTRUCTION	$275,000	2002
JEFFERSON	05- 1012.05	-	CM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 1012.06	-	CM	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 1012.07	-	CM	CONSTRUCTION	$5,000,000	2003
JEFFERSON	05- 1012.08	-	CM	CONSTRUCTION	$3,400,000	2004
JEFFERSON	05- 1018.00	CR-9999	BRZ	RIGHT OF WAY	$100,000	2001
JEFFERSON	05- 1018.00	CR-9999	BRZ	UTILITIES	$75,000	2001
JEFFERSON	05- 2000.00	I-264	IM	DESIGN	$300,000	2001
JEFFERSON	05- 2000.00	I-264	IM	CONSTRUCTION	$10,000,000	2002
JEFFERSON	05- 2000.01	I-264	IM	CONSTRUCTION	$10,000,000	2003
JEFFERSON	05- 2001.00	I-264	IM	CONSTRUCTION	$8,700,000	2001
JEFFERSON	05- 2002.00	I-265	IM	DESIGN	$20,000	2002
JEFFERSON	05- 2002.00	I-265	IM	CONSTRUCTION	$6,200,000	2004
JEFFERSON	05- 2004.00	I-265	IM	CONSTRUCTION	$2,000,000	2001
JEFFERSON	05- 2007.00	I-64	IM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 2024.00	KY-841	SP	CONSTRUCTION	$1,820,000	2001
JEFFERSON	05- 2026.00	US-31W	SP	CONSTRUCTION	$350,000	2001
JEFFERSON	05- 2027.00	KY-1020	SP	CONSTRUCTION	$500,000	2001
JESSAMINE	07- 87.02	-	STP	RIGHT OF WAY	$2,500,000	2001
JESSAMINE	07- 87.02	-	STP	UTILITIES	$1,000,000	2002
JESSAMINE	07- 318.01	US-68	STP	RIGHT OF WAY	$2,500,000	2003
JESSAMINE	07- 318.01	US-68	STP	UTILITIES	$1,000,000	2004
JESSAMINE	07- 1078.00	KY-29	BRX	CONSTRUCTION	$850,000	2001
JESSAMINE	07- 5006.00	US-68	SP	DESIGN	$60,000	2003
JOHNSON	12- 294.00	KY-40	SP	CONSTRUCTION	$3,600,000	2001
JOHNSON	12- 1036.00	KY-40	BRO	CONSTRUCTION	$2,500,000	2002
JOHNSON	12- 5002.00	KY-1100	SP	CONSTRUCTION	$350,000	2002
JOHNSON	12- 5008.00	KY-321	SP	DESIGN	$220,000	2002
JOHNSON	12- 5008.00	KY-321	SP	RIGHT OF WAY	$60,000	2003
KENTON	06- 71.03	KY-1303	SNK	RIGHT OF WAY	$4,000,000	2002
KENTON	06- 71.03	KY-1303	SNK	UTILITIES	$1,000,000	2004
KENTON	06- 273.00	KY-1120	SNK	CONSTRUCTION	$4,500,000	2001
KENTON	06- 286.01	-	SP	RIGHT OF WAY	$250,000	2001
KENTON	06- 286.01	-	SP	UTILITIES	$200,000	2002
KENTON	06- 286.01	-	SP	CONSTRUCTION	$9,000,000	2004
KENTON	06- 300.00	-	STP	DESIGN	$2,100,000	2001
KENTON	06- 300.00	-	STP	CONSTRUCTION	$14,000,000	2002
KENTON	06- 313.10	KY-17	SP	UTILITIES	$1,000,000	2001
KENTON	06- 313.10	KY-17	SP	CONSTRUCTION	$10,000,000	2002
KENTON	06- 344.00	KY-16	SP	RIGHT OF WAY	$7,900,000	2001
KENTON	06- 344.00	KY-16	SNK	UTILITIES	$8,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	UTILITIES	$1,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	CONSTRUCTION	$2,800,000	2002

KENTON	06- 2003.00	I-275	IM	CONSTRUCTION	$1,000,000	2002
KENTON	06- 5002.00	KY-1072	SP	RIGHT OF WAY	$20,000	2001
KENTON	06- 5002.00	KY-1072	SP	CONSTRUCTION	$450,000	2002
KENTON	06- 5007.00	I-275	SP	DESIGN	$150,000	2002
KENTON	06- 5007.00	I-275	SP	CONSTRUCTION	$1,500,000	2004
KENTON	06- 5008.00	I-275	SP	DESIGN	$175,000	2002
KNOTT	12- 2000.00	KY-80	SP	DESIGN	$25,000	2004
KNOTT	12- 5000.00	KY-80	SP	CONSTRUCTION	$417,000	2001
KNOTT	12- 5001.00	KY-550	SP	RIGHT OF WAY	$5,000	2001
KNOTT	12- 5001.00	KY-550	SP	CONSTRUCTION	$173,900	2002
KNOTT	12- 5006.00	KY-80	SP	DESIGN	$210,000	2002
KNOTT	12- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
KNOTT	12- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
KNOX	11- 112.00	-	SP	DESIGN	$400,000	2003
KNOX	11- 218.00	KY-11	SP	RIGHT OF WAY	$150,000	2001
KNOX	11- 218.00	KY-11	SP	UTILITIES	$50,000	2001
KNOX	11- 218.00	KY-11	SP	CONSTRUCTION	$405,000	2002
LARUE	04- 121.01	KY-210	STP	CONSTRUCTION	$8,000,000	2001
LARUE	04- 121.02	KY-210	STP	CONSTRUCTION	$12,000,000	2002
LARUE	04- 1047.00	KY-470	BRX	CONSTRUCTION	$350,000	2002
LARUE	04- 5006.00	KY-84	SP	DESIGN	$60,000	2004
LAUREL	11- 8.00	I-75	NH	CONSTRUCTION	$14,000,000	2003
LAUREL	11- 9.01	I-75	NH	CONSTRUCTION	$10,000,000	2003
LAUREL	11- 9.02	I-75	NH	CONSTRUCTION	$5,000,000	2004
LAUREL	11- 15.00	I-75	STP	CONSTRUCTION	$16,000,000	2003
LAUREL	11- 15.01	I-75	SP	CONSTRUCTION	$7,500,000	2003
LAUREL	11- 15.02	I-75	SP	CONSTRUCTION	$13,500,000	2004
LAUREL	11- 278.10	KY-30	SP	CONSTRUCTION	$10,000,000	2001
LAUREL	11- 278.12	KY-30	SP	CONSTRUCTION	$7,000,000	2003
LAUREL	11- 278.20	KY-30	SP	DESIGN	$2,500,000	2001
LAUREL	11- 278.20	KY-30	SP	RIGHT OF WAY	$4,000,000	2003
LAUREL	11- 1047.00	KY-1305	BRX	CONSTRUCTION	$200,000	2002
LAUREL	11- 2004.00	DB-9006	SP	CONSTRUCTION	$7,500,000	2002
LAUREL	11- 2004.01	DB-9006	SP	CONSTRUCTION	$8,700,000	2004
LAUREL	11- 2007.00	US-25E	SP	DESIGN	$50,000	2003
LAWRENCE	12- 3.00	US-23	NH	RIGHT OF WAY	$1,700,000	2001
LAWRENCE	12- 3.00	US-23	NH	UTILITIES	$750,000	2003
LAWRENCE	12- 3.00	US-23	NH	CONSTRUCTION	$8,500,000	2004
LAWRENCE	12- 284.00	KY-32	STP	DESIGN	$600,000	2004
LAWRENCE	12- 1033.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1034.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1063.00	CR-1124	BRZ	CONSTRUCTION	$500,000	2001
LEE	10- 292.00	KY-11	SP	DESIGN	$1,200,000	2002
LEE	10- 1056.00	CR-1147	BRZ	DESIGN	$75,000	2002
LEE	10- 1056.00	CR-1147	BRZ	RIGHT OF WAY	$50,000	2004
LEE	10- 1056.00	CR-1147	BRZ	UTILITIES	$50,000	2004
LESLIE	11- 12.00	US-421	STP	DESIGN	$500,000	2002

LESLIE	11- 119.00	DB-9006	SP	DESIGN	$400,000	2003
LETCHER	12- 121.00	KY-15	SP	DESIGN	$150,000	2003
LETCHER	12- 311.10	US-119	APD	CONSTRUCTION	$10,000,000	2001
LETCHER	12- 311.11	US-119	APD	CONSTRUCTION	$15,000,000	2003
LETCHER	12- 311.12	US-119	APD	CONSTRUCTION	$21,000,000	2004
LETCHER	12- 314.00	US-119	APD	DESIGN	$3,500,000	2001
LETCHER	12- 314.00	US-119	APD	RIGHT OF WAY	$4,152,000	2003
LETCHER	12- 314.00	US-119	APD	UTILITIES	$1,725,000	2004
LETCHER	12- 1059.00	CR-1371	BRZ	CONSTRUCTION	$550,000	2002
LETCHER	12- 1061.00	KY-113	BRX	CONSTRUCTION	$600,000	2002
LETCHER	12- 5003.00	KY-588	SP	CONSTRUCTION	$400,000	2002
LINCOLN	08- 161.00	US-150	STP	UTILITIES	$200,000	2001
LINCOLN	08- 161.00	US-150	STP	CONSTRUCTION	$4,500,000	2002
LINCOLN	08- 163.00	US-150	SP	DESIGN	$1,500,000	2001
LINCOLN	08- 163.00	US-150	STP	RIGHT OF WAY	$3,000,000	2003
LINCOLN	08- 5006.00	US-27	SP	DESIGN	$60,000	2003
LINCOLN	08- 5006.00	US-27	SP	RIGHT OF WAY	$50,000	2004
LINCOLN	08- 5006.00	US-27	SP	UTILITIES	$60,000	2004
LIVINGSTON	01- 184.00	US-60	SP	DESIGN	$750,000	2002
LIVINGSTON	01- 184.00	US-60	STP	RIGHT OF WAY	$1,250,000	2004
LIVINGSTON	01- 330.00	US-60	SP	DESIGN	$850,000	2003
LIVINGSTON	01- 1123.00	KY-952	BRX	CONSTRUCTION	$750,000	2001
LIVINGSTON	01- 2003.00	I-24	IM	CONSTRUCTION	$800,000	2002
LIVINGSTON	01- 5001.00	US-60	SP	RIGHT OF WAY	$10,000	2001
LIVINGSTON	01- 5001.00	US-60	SP	CONSTRUCTION	$350,000	2001
LOGAN	03- 148.00	-	SP	RIGHT OF WAY	$1,500,000	2002
LOGAN	03- 148.00	-	SP	UTILITIES	$500,000	2004
LYON	01- 307.01	US-62	SP	RIGHT OF WAY	$4,000,000	2002
LYON	01- 307.01	US-62	SP	UTILITIES	$4,000,000	2004
LYON	01- 5002.00	KY-295	SP	RIGHT OF WAY	$20,000	2001
LYON	01- 5002.00	KY-295	SP	UTILITIES	$15,000	2001
LYON	01- 5002.00	KY-295	SP	CONSTRUCTION	$450,000	2002
MADISON	07- 28.10	CR-1206	SP	RIGHT OF WAY	$350,000	2001
MADISON	07- 28.10	CR-1206	SP	UTILITIES	$2,400,000	2001
MADISON	07- 28.10	CR-1206	SP	CONSTRUCTION	$3,000,000	2002
MADISON	07- 214.00	KY-169	SP	RIGHT OF WAY	$1,500,000	2001
MADISON	07- 214.00	KY-169	SP	UTILITIES	$1,500,000	2003
MADISON	07- 214.00	KY-169	SP	CONSTRUCTION	$6,500,000	2004
MADISON	07- 309.00	KY-52	STP	UTILITIES	$1,710,000	2001
MADISON	07- 309.00	KY-52	STP	CONSTRUCTION	$9,250,000	2002
MADISON	07- 5003.00	KY-52	SP	DESIGN	$150,000	2001
MADISON	07- 5003.00	KY-52	SP	CONSTRUCTION	$1,250,000	2002
MAGOFFIN	10- 121.00	US-460	SP	DESIGN	$1,000,000	2003
MAGOFFIN	10- 280.00	US-460	STP	CONSTRUCTION	$4,500,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	RIGHT OF WAY	$2,000,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	UTILITIES	$1,500,000	2003
MAGOFFIN	12- 1.10	KY-114	NH	CONSTRUCTION	$15,000,000	2004

MARION	04- 192.00	US-68	SP	DESIGN	$1,200,000	2001
MARION	04- 192.00	US-68	SP	RIGHT OF WAY	$2,000,000	2003
MARION	04- 309.00	KY-49	STP	RIGHT OF WAY	$300,000	2001
MARION	04- 309.00	KY-49	STP	UTILITIES	$200,000	2001
MARSHALL	01- 180.70	US-68	BRO	UTILITIES	$150,000	2001
MARSHALL	01- 180.70	US-68	BRO	CONSTRUCTION	$7,000,000	2004
MARSHALL	01- 1117.00	KY-58	BRO	RIGHT OF WAY	$250,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	UTILITIES	$1,275,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	CONSTRUCTION	$2,000,000	2003
MARSHALL	01- 1121.00	US-68	BRO	CONSTRUCTION	$2,500,000	2002
MARSHALL	01- 1130.00	KY-1824	BRX	RIGHT OF WAY	$75,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	UTILITIES	$295,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	CONSTRUCTION	$500,000	2003
MARSHALL	01- 5000.00	KY-80	SP	CONSTRUCTION	$150,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	DESIGN	$60,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	RIGHT OF WAY	$10,000	2002
MARSHALL	01- 5003.00	PU-9003	SP	CONSTRUCTION	$450,000	2004
MARTIN	12- 154.01	KY-40	SP	CONSTRUCTION	$4,000,000	2001
MARTIN	12- 154.02	KY-40	STP	CONSTRUCTION	$11,000,000	2001
MARTIN	12- 154.03	KY-40	STP	CONSTRUCTION	$25,000,000	2002
MARTIN	12- 154.04	KY-40	STP	CONSTRUCTION	$15,000,000	2003
MARTIN	12- 154.10	KY-40	STP	RIGHT OF WAY	$3,000,000	2001
MARTIN	12- 154.10	KY-40	STP	UTILITIES	$3,000,000	2003
MARTIN	12- 285.00	KY-40	SP	DESIGN	$250,000	2004
MARTIN	12- 1052.00	CR-9999	BRZ	CONSTRUCTION	$450,000	2002
MASON	09- 108.00	US-62	STP	CONSTRUCTION	$6,000,000	2002
MASON	09- 124.01	US-68	NH	RIGHT OF WAY	$4,000,000	2001
MASON	09- 124.01	US-68	NH	UTILITIES	$3,500,000	2001
MASON	09- 124.01	US-68	NH	CONSTRUCTION	$17,000,000	2002
MASON	09- 145.00	-	SP	CONSTRUCTION	$1,150,000	2001
MCCRACKEN	01- 115.10	US-60	SP	DESIGN	$400,000	2001
MCCRACKEN	01- 115.10	US-60	SP	RIGHT OF WAY	$1,250,000	2003
MCCRACKEN	01- 186.00	US-45	STP	CONSTRUCTION	$2,500,000	2004
MCCRACKEN	01- 260.00	US-62	STP	UTILITIES	$3,400,000	2001
MCCRACKEN	01- 260.00	US-62	STP	CONSTRUCTION	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	RIGHT OF WAY	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	UTILITIES	$2,000,000	2004
MCCRACKEN	01- 1115.00	US-60	BRO	RIGHT OF WAY	$5,000,000	2001
MCCRACKEN	01- 1115.00	US-60	BRO	UTILITIES	$3,000,000	2003
MCCRACKEN	01- 1124.00	KY-998	BRX	RIGHT OF WAY	$500,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	UTILITIES	$1,000,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	CONSTRUCTION	$2,000,000	2002
MCCREARY	08- 262.01	US-27	SP	CONSTRUCTION	$3,500,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	RIGHT OF WAY	$200,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	UTILITIES	$150,000	2001
MCLEAN	02- 9.00	US-431	STP	RIGHT OF WAY	$600,000	2002
MCLEAN	02- 9.00	US-431	STP	UTILITIES	$400,000	2004

MCLEAN	02- 1049.00	KY-136	BRO	RIGHT OF WAY	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	UTILITIES	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	CONSTRUCTION	$250,000	2004
MEADE	04- 53.00	KY-313	SP	DESIGN	$1,800,000	2001
MEADE	04- 53.01	KY-313	STP	RIGHT OF WAY	$6,500,000	2003
MEADE	04- 2006.00	US-31W	SP	DESIGN	$30,000	2001
MEADE	04- 2006.00	US-31W	SP	CONSTRUCTION	$1,200,000	2003
MEADE	04- 5001.00	KY-230	SP	CONSTRUCTION	$325,000	2002
MENIFEE	10- 117.01	US-460	STP	RIGHT OF WAY	$2,000,000	2002
MENIFEE	10- 117.01	US-460	STP	UTILITIES	$1,500,000	2004
MENIFEE	10- 1054.00	KY-713	BRX	RIGHT OF WAY	$600,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	UTILITIES	$75,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	CONSTRUCTION	$360,000	2002
MENIFEE	10- 5008.00	KY-1274	SP	DESIGN	$100,000	2004
MERCER	07- 1075.00	KY-152	BRO	RIGHT OF WAY	$150,000	2001
MERCER	07- 1075.00	KY-152	BRO	UTILITIES	$75,000	2001
MERCER	07- 1089.00	KY-1988	BRX	RIGHT OF WAY	$50,000	2002
MERCER	07- 1089.00	KY-1988	BRX	UTILITIES	$30,000	2003
MERCER	07- 1089.00	KY-1988	BRX	CONSTRUCTION	$150,000	2004
METCALFE	03- 1050.00	KY-640	BRX	CONSTRUCTION	$350,000	2002
MONROE	03- 276.01	KY-163	SP	DESIGN	$800,000	2001
MONROE	03- 276.01	KY-163	STP	RIGHT OF WAY	$2,500,000	2003
MONROE	03- 7020.00	-	SP	RIGHT OF WAY	$1,500,000	2001
MONROE	03- 7020.00	-	SP	UTILITIES	$500,000	2002
MONTGOMERY	07- 83.00	US-60	STP	CONSTRUCTION	$600,000	2001
MONTGOMERY	07- 124.00	US-460	SP	RIGHT OF WAY	$500,000	2003
MONTGOMERY	07- 124.00	US-460	SP	UTILITIES	$300,000	2003
MONTGOMERY	07- 317.00	KY-11	SP	RIGHT OF WAY	$2,000,000	2002
MONTGOMERY	07- 317.00	KY-11	SP	UTILITIES	$1,500,000	2002
MONTGOMERY	07- 1079.00	KY-599	BRX	CONSTRUCTION	$350,000	2002
MONTGOMERY	07- 2000.00	I-64	IM	DESIGN	$250,000	2001
MONTGOMERY	07- 2000.00	I-64	IM	CONSTRUCTION	$10,000,000	2001
MONTGOMERY	07- 2000.01	I-64	IM	CONSTRUCTION	$7,000,000	2002
MORGAN	10- 130.00	US-460	SP	RIGHT OF WAY	$650,000	2002
MORGAN	10- 130.00	US-460	SP	UTILITIES	$120,000	2004
MORGAN	10- 291.00	KY-7	SP	CONSTRUCTION	$7,000,000	2001
MORGAN	10- 1037.00	US-460	BRO	CONSTRUCTION	$425,000	2002
MORGAN	10- 7000.00	KY-519	SP	RIGHT OF WAY	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	UTILITIES	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	CONSTRUCTION	$3,000,000	2004
MUHLENBERG	02- 313.00	KY-181	SP	DESIGN	$800,000	2002
MUHLENBERG	02- 1015.00	CR-1412	BRZ	CONSTRUCTION	$225,000	2001
MUHLENBERG	02- 2005.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2001
MUHLENBERG	02- 2006.00	WK-9001	SP	CONSTRUCTION	$3,500,000	2002
MUHLENBERG	02- 5006.00	US-431	SP	RIGHT OF WAY	$20,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	UTILITIES	$10,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	CONSTRUCTION	$120,000	2002

NELSON	04- 184.00	US-62	STP	RIGHT OF WAY	$1,000,000	2002
NELSON	04- 184.00	US-62	STP	UTILITIES	$400,000	2003
NELSON	04- 191.00	BG-9002	NH	CONSTRUCTION	$590,000	2002
NELSON	04- 285.00	US-31E	SP	RIGHT OF WAY	$750,000	2002
NELSON	04- 285.00	US-31E	SP	UTILITIES	$500,000	2002
NELSON	04- 287.00	US-31E	SP	UTILITIES	$1,950,000	2001
NELSON	04- 287.00	US-31E	SP	CONSTRUCTION	$23,000,000	2002
NELSON	04- 295.10	KY-245	SP	UTILITIES	$200,000	2001
NELSON	04- 295.10	KY-245	SP	CONSTRUCTION	$1,000,000	2002
NELSON	04- 311.00	US-31E	STP	CONSTRUCTION	$3,000,000	2002
NELSON	04- 1049.00	KY-509	BRX	CONSTRUCTION	$400,000	2003
NELSON	04- 2004.00	BG-9002	NH	DESIGN	$60,000	2002
NELSON	04- 2004.00	BG-9002	NH	CONSTRUCTION	$5,250,000	2002
OHIO	02- 5003.00	WN-9007	SP	CONSTRUCTION	$82,300	2002
OLDHAM	05- 230.00	KY-393	STP	CONSTRUCTION	$4,000,000	2001
OLDHAM	05- 230.01	KY-393	STP	CONSTRUCTION	$6,300,000	2002
OLDHAM	05- 304.01	KY-22	STP	RIGHT OF WAY	$3,300,000	2001
OLDHAM	05- 304.01	KY-22	STP	UTILITIES	$1,600,000	2002
OLDHAM	05- 367.00	-	STP	UTILITIES	$3,000,000	2003
OLDHAM	05- 5005.00	KY-1793	SP	DESIGN	$75,000	2002
OWSLEY	10- 279.50	KY-30	SP	DESIGN	$500,000	2001
OWSLEY	10- 1034.00	KY-30	BRO	CONSTRUCTION	$2,800,000	2001
OWSLEY	10- 5003.00	KY-847	SP	CONSTRUCTION	$265,600	2001
OWSLEY	10- 5004.00	KY-28	SP	DESIGN	$180,000	2001
OWSLEY	10- 5004.00	KY-28	SP	RIGHT OF WAY	$25,000	2002
OWSLEY	10- 5004.00	KY-28	SP	CONSTRUCTION	$1,500,000	2003
PENDLETON	06- 276.00	US-27	STP	CONSTRUCTION	$4,500,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	RIGHT OF WAY	$160,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	UTILITIES	$100,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	CONSTRUCTION	$1,000,000	2002
PERRY	10- 114.00	KY-7	STP	RIGHT OF WAY	$1,000,000	2001
PERRY	10- 114.00	KY-7	STP	UTILITIES	$750,000	2002
PERRY	10- 114.00	KY-7	STP	CONSTRUCTION	$13,100,000	2003
PERRY	10- 114.02	KY-7	STP	CONSTRUCTION	$6,000,000	2004
PERRY	10- 122.00	DB-9006	SP	DESIGN	$500,000	2003
PERRY	10- 269.01	KY-15	STP	CONSTRUCTION	$11,500,000	2002
PERRY	10- 269.02	KY-15	NH	CONSTRUCTION	$17,000,000	2001
PERRY	10- 1021.00	-	BRZ	RIGHT OF WAY	$696,000	2002
PERRY	10- 1021.00	-	BRZ	UTILITIES	$250,000	2002
PERRY	10- 5000.00	KY-476	SP	CONSTRUCTION	$307,600	2001
PERRY	10- 5002.00	KY-476	SP	CONSTRUCTION	$63,400	2001
PERRY	10- 5005.00	KY-7	SP	RIGHT OF WAY	$50,000	2001
PERRY	10- 5005.00	KY-7	SP	CONSTRUCTION	$1,750,000	2003
PERRY	10- 5006.00	KY-80	SP	DESIGN	$210,000	2002
PERRY	10- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
PERRY	10- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
PIKE	12- 131.00	US-23	NH	DESIGN	$400,000	2001

PIKE	12- 131.00	US-23	NH	RIGHT OF WAY	$1,000,000	2003
PIKE	12- 131.00	US-23	NH	UTILITIES	$1,000,000	2004
PIKE	12- 131.01	US-23	NH	DESIGN	$400,000	2002
PIKE	12- 263.10	US-460	SP	CONSTRUCTION	$13,500,000	2002
PIKE	12- 263.11	US-460	SP	CONSTRUCTION	$10,000,000	2003
PIKE	12- 263.15	US-460	SP	RIGHT OF WAY	$4,000,000	2001
PIKE	12- 263.15	US-460	APD	UTILITIES	$2,000,000	2003
PIKE	12- 263.22	US-460	APD	DESIGN	$1,000,000	2001
PIKE	12- 263.22	US-460	APD	RIGHT OF WAY	$5,000,000	2003
PIKE	12- 263.24	US-460	APD	DESIGN	$1,000,000	2003
PIKE	12- 264.21	US-119	NH	CONSTRUCTION	$11,000,000	2002
PIKE	12- 264.22	US-119	NH	CONSTRUCTION	$4,000,000	2003
PIKE	12- 281.00	KY-194	SP	DESIGN	$200,000	2003
PIKE	12- 298.00	KY-199	SP	RIGHT OF WAY	$2,500,000	2002
PIKE	12- 298.00	KY-199	SP	UTILITIES	$300,000	2002
PIKE	12- 308.12	US-119	NH	CONSTRUCTION	$11,000,000	2001
PIKE	12- 308.21	US-119	APD	CONSTRUCTION	$11,000,000	2002
PIKE	12- 308.30	US-119	APD	CONSTRUCTION	$7,000,000	2001
PIKE	12- 308.31	US-119	APD	CONSTRUCTION	$13,000,000	2002
PIKE	12- 308.32	US-119	APD	CONSTRUCTION	$14,000,000	2003
PIKE	12- 308.33	US-119	STP	CONSTRUCTION	$20,000,000	2004
PIKE	12- 308.40	US-119	APD	CONSTRUCTION	$20,000,000	2004
PIKE	12- 1037.00	KY-1499	BRO	CONSTRUCTION	$700,000	2003
PIKE	12- 1042.00	KY-2061	BRX	CONSTRUCTION	$425,000	2002
PIKE	12- 1043.00	KY-3419	BRX	CONSTRUCTION	$350,000	2002
PIKE	12- 1050.00	CR-1559	BRZ	CONSTRUCTION	$300,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	RIGHT OF WAY	$50,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	UTILITIES	$100,000	2001
PIKE	12- 1057.00	KY-292	BRO	RIGHT OF WAY	$200,000	2002
PIKE	12- 1057.00	KY-292	BRO	UTILITIES	$300,000	2002
PIKE	12- 1057.00	KY-292	BRO	CONSTRUCTION	$1,400,000	2004
PIKE	12- 1062.00	KY-199	BRX	CONSTRUCTION	$375,000	2002
PIKE	12- 5005.00	US-23	SP	DESIGN	$250,000	2001
PIKE	12- 5005.00	US-23	SP	RIGHT OF WAY	$80,000	2002
PIKE	12- 5005.00	US-23	SP	CONSTRUCTION	$2,500,000	2003
PIKE	12- 5010.00	KY-1426	SP	DESIGN	$300,000	2001
POWELL	10- 118.01	KY-213	STP	UTILITIES	$750,000	2001
POWELL	10- 118.01	KY-213	STP	CONSTRUCTION	$1,720,000	2002
POWELL	10- 1055.00	KY-1639	BRX	CONSTRUCTION	$363,000	2002
PULASKI	08- 55.10	US-27	NH	UTILITIES	$3,000,000	2001
PULASKI	08- 55.10	US-27	NH	CONSTRUCTION	$10,000,000	2002
PULASKI	08- 55.11	US-27	NH	CONSTRUCTION	$10,000,000	2003
PULASKI	08- 138.03	US-27	BRO	CONSTRUCTION	$9,000,000	2001
PULASKI	08- 259.01	-	STP	RIGHT OF WAY	$5,500,000	2001
PULASKI	08- 259.01	-	STP	UTILITIES	$2,500,000	2003
PULASKI	08- 268.01	-	SP	CONSTRUCTION	$2,500,000	2001
PULASKI	08- 270.00	KY-1247	SP	RIGHT OF WAY	$3,750,000	2002

PULASKI	08- 270.00	KY-1247	SP	UTILITIES	$970,000	2004
PULASKI	08- 1009.01	KY-90	BRO	CONSTRUCTION	$5,000,000	2001
PULASKI	08- 1009.02	KY-90	BRO	CONSTRUCTION	$12,000,000	2002
PULASKI	08- 1009.03	KY-90	BRO	CONSTRUCTION	$13,000,000	2003
PULASKI	08- 5003.00	US-27	SP	DESIGN	$70,000	2001
PULASKI	08- 5003.00	US-27	SP	RIGHT OF WAY	$200,000	2002
PULASKI	08- 5003.00	US-27	SP	UTILITIES	$75,000	2002
PULASKI	08- 5003.00	US-27	SP	CONSTRUCTION	$1,600,000	2003
PULASKI	08- 5004.00	CU-9008	SP	DESIGN	$50,000	2001
PULASKI	08- 5004.00	CU-9008	SP	RIGHT OF WAY	$20,000	2002
PULASKI	08- 5004.00	CU-9008	SP	CONSTRUCTION	$2,350,000	2004
ROBERTSON	06- 121.00	KY-165	SP	RIGHT OF WAY	$500,000	2001
ROBERTSON	06- 121.00	KY-165	SP	UTILITIES	$300,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	RIGHT OF WAY	$35,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	UTILITIES	$30,000	2001
ROCKCASTLE	08- 4.00	I-75	IM	CONSTRUCTION	$4,000,000	2002
ROCKCASTLE	08- 4.01	I-75	NH	CONSTRUCTION	$10,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	DESIGN	$1,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	RIGHT OF WAY	$3,000,000	2004
ROWAN	09- 142.00	KY-32	SP	CONSTRUCTION	$2,500,000	2001
ROWAN	09- 156.01	KY-519	STP	RIGHT OF WAY	$2,000,000	2001
ROWAN	09- 156.01	KY-519	STP	UTILITIES	$1,500,000	2002
ROWAN	09- 156.01	KY-519	STP	CONSTRUCTION	$12,500,000	2004
ROWAN	09- 300.00	I-64	STP	DESIGN	$280,000	2001
ROWAN	09- 300.00	I-64	STP	CONSTRUCTION	$7,000,000	2001
ROWAN	09- 301.00	-	STP	RIGHT OF WAY	$1,000,000	2001
ROWAN	09- 301.00	-	STP	UTILITIES	$1,000,000	2001
ROWAN	09- 301.00	-	STP	CONSTRUCTION	$4,400,000	2004
ROWAN	09- 1026.00	KY-32	BRO	CONSTRUCTION	$500,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	CONSTRUCTION	$1,000,000	2004
ROWAN	09- 5007.00	I-64	SP	DESIGN	$60,000	2004
ROWAN	09- 7010.00	-	SP	CONSTRUCTION	$1,100,000	2001
RUSSELL	08- 54.01	US-127	SP	DESIGN	$300,000	2001
RUSSELL	08- 54.01	US-127	STP	RIGHT OF WAY	$5,500,000	2003
RUSSELL	08- 5007.00	US-127	SP	DESIGN	$35,000	2004
SCOTT	06- 72.21	I-75	NH	UTILITIES	$500,000	2001
SCOTT	07- 86.00	US-460	STP	UTILITIES	$700,000	2001
SCOTT	07- 86.00	US-460	STP	CONSTRUCTION	$5,000,000	2002
SCOTT	07- 102.01	-	STP	RIGHT OF WAY	$6,000,000	2004
SCOTT	07- 209.20	-	SP	CONSTRUCTION	$3,675,000	2001
SCOTT	07- 212.00	US-460	SP	DESIGN	$300,000	2001
SCOTT	07- 212.00	US-460	STP	RIGHT OF WAY	$750,000	2003
SCOTT	07- 298.00	US-62	SP	UTILITIES	$750,000	2001
SCOTT	07- 298.00	US-62	STP	CONSTRUCTION	$9,000,000	2002
SCOTT	07- 1042.00	CR-1218	BRZ	CONSTRUCTION	$500,000	2001
SCOTT	07- 1076.00	KY-32	BRO	UTILITIES	$75,000	2001
SCOTT	07- 1076.00	KY-32	BRO	CONSTRUCTION	$200,000	2002

SCOTT	07- 5000.00	KY-620	SP	CONSTRUCTION	$342,000	2001
SHELBY	05- 172.00	KY-395	STP	RIGHT OF WAY	$4,000,000	2002
SHELBY	05- 172.00	KY-395	STP	UTILITIES	$800,000	2003
SHELBY	05- 326.01	-	SP	RIGHT OF WAY	$5,000,000	2002
SHELBY	05- 326.01	-	SP	UTILITIES	$2,000,000	2003
SHELBY	05- 326.01	-	SP	CONSTRUCTION	$18,000,000	2004
SHELBY	05- 1021.00	US-60	BRO	RIGHT OF WAY	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	UTILITIES	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	CONSTRUCTION	$200,000	2004
SHELBY	05- 2006.00	I-64	IM	DESIGN	$150,000	2002
SHELBY	05- 2011.00	KY-53	SP	CONSTRUCTION	$4,000,000	2001
SHELBY	05- 2012.00	US-60	SP	CONSTRUCTION	$100,000	2001
SIMPSON	03- 8.00	US-31W	STP	RIGHT OF WAY	$5,500,000	2001
SIMPSON	03- 8.00	US-31W	STP	UTILITIES	$2,500,000	2001
SIMPSON	03- 197.00	KY-100	SP	CONSTRUCTION	$1,000,000	2001
SIMPSON	03- 1052.00	KY-73	BRO	RIGHT OF WAY	$75,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	UTILITIES	$50,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	CONSTRUCTION	$300,000	2004
SPENCER	05- 307.00	KY-2450	SP	CONSTRUCTION	$2,500,000	2001
SPENCER	05- 347.00	KY-44	STP	DESIGN	$1,000,000	2003
SPENCER	05- 5001.00	KY-44	SP	CONSTRUCTION	$250,000	2002
SPENCER	05- 5006.00	KY-55	SP	DESIGN	$45,000	2003
TAYLOR	04- 114.00	KY-210	SP	DESIGN	$350,000	2004
TAYLOR	04- 1037.00	CR-1210	BRZ	CONSTRUCTION	$200,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	RIGHT OF WAY	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	UTILITIES	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	CONSTRUCTION	$500,000	2004
TAYLOR	04- 5000.00	US-68	SP	CONSTRUCTION	$550,000	2001
TODD	03- 2003.00	US-79	SP	CONSTRUCTION	$3,000,000	2002
TODD	03- 2004.00	KY-346	SP	CONSTRUCTION	$1,400,000	2001
TRIGG	01- 180.51	US-68	STP	RIGHT OF WAY	$4,900,000	2001
TRIGG	01- 180.51	US-68	STP	UTILITIES	$7,745,000	2002
TRIGG	01- 180.51	US-68	STP	CONSTRUCTION	$8,000,000	2004
TRIGG	01- 180.52	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.52	US-68	SP	UTILITIES	$1,250,000	2001
TRIGG	01- 180.52	US-68	SP	CONSTRUCTION	$14,000,000	2003
TRIGG	01- 180.53	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.53	US-68	SP	UTILITIES	$500,000	2001
TRIGG	01- 180.53	US-68	SP	CONSTRUCTION	$10,500,000	2003
TRIGG	01- 180.60	US-68	BRO	UTILITIES	$150,000	2001
TRIGG	01- 180.60	US-68	BRO	CONSTRUCTION	$8,000,000	2003
TRIGG	01- 180.61	US-68	STP	CONSTRUCTION	$11,000,000	2004
TRIGG	01- 1120.00	KY-139	BRO	RIGHT OF WAY	$250,000	2001
TRIGG	01- 1120.00	KY-139	BRO	UTILITIES	$260,000	2001
TRIGG	01- 1120.00	KY-139	BRO	CONSTRUCTION	$1,780,000	2003
TRIGG	01- 1131.00	KY-272	BRX	RIGHT OF WAY	$300,000	2002
TRIGG	01- 1131.00	KY-272	BRX	UTILITIES	$300,000	2002

TRIMBLE	05- 5003.00	US-42	SP	DESIGN	$65,000	2001
TRIMBLE	05- 5003.00	US-42	SP	CONSTRUCTION	$500,000	2002
UNION	02- 79.20	US-60	SP	DESIGN	$1,800,000	2004
UNION	02- 102.00	KY-56	STP	CONSTRUCTION	$2,500,000	2002
UNION	02- 122.01	US-60	STP	RIGHT OF WAY	$1,500,000	2001
UNION	02- 122.01	US-60	STP	UTILITIES	$1,000,000	2002
UNION	02- 122.01	US-60	STP	CONSTRUCTION	$15,000,000	2003
UNION	02- 123.01	US-60	STP	RIGHT OF WAY	$1,000,000	2001
UNION	02- 123.01	US-60	STP	UTILITIES	$750,000	2003
UNION	02- 123.01	US-60	STP	CONSTRUCTION	$10,500,000	2004
UNION	02- 294.01	US-60	STP	CONSTRUCTION	$4,750,000	2001
UNION	02- 1048.00	KY-948	BRX	CONSTRUCTION	$130,000	2002
UNION	02- 2023.00	KY-109	SP	CONSTRUCTION	$1,210,000	2001
WARREN	03- 5.00	I-65	IM	CONSTRUCTION	$12,000,000	2004
WARREN	03- 6.00	I-65	NH	CONSTRUCTION	$5,000,000	2004
WARREN	03- 6.01	I-65	IM	CONSTRUCTION	$4,000,000	2004
WARREN	03- 11.00	I-65	STP	CONSTRUCTION	$15,000,000	2004
WARREN	03- 11.01	I-65	SP	CONSTRUCTION	$14,000,000	2004
WARREN	03- 53.00	-	NH	CONSTRUCTION	$7,000,000	2002
WARREN	03- 53.01	-	NH	CONSTRUCTION	$10,000,000	2003
WARREN	03- 146.31	US-231	STP	CONSTRUCTION	$5,000,000	2001
WARREN	03- 252.10	KY-234	STP	CONSTRUCTION	$6,000,000	2001
WARREN	03- 290.01	KY-880	SP	RIGHT OF WAY	$4,500,000	2001
WARREN	03- 290.01	KY-880	SP	UTILITIES	$2,500,000	2003
WARREN	03- 310.00	-	SP	UTILITIES	$750,000	2002
WARREN	03- 310.00	-	SP	CONSTRUCTION	$3,200,000	2004
WARREN	03- 312.00	US-31W	STP	RIGHT OF WAY	$2,500,000	2001
WARREN	03- 312.00	US-31W	STP	UTILITIES	$2,000,000	2003
WARREN	03- 316.00	KY-2158	SP	RIGHT OF WAY	$2,000,000	2001
WARREN	03- 316.00	KY-2158	SP	UTILITIES	$2,500,000	2003
WARREN	03- 317.00	US-31W	STP	DESIGN	$500,000	2003
WASHINGTON	04- 103.05	US-150	STP	CONSTRUCTION	$4,200,000	2001
WASHINGTON	04- 284.01	KY-555	STP	UTILITIES	$1,000,000	2001
WASHINGTON	04- 284.01	KY-555	STP	CONSTRUCTION	$19,600,000	2003
WASHINGTON	04- 307.00	US-150	STP	DESIGN	$500,000	2001
WASHINGTON	04- 307.00	US-150	STP	RIGHT OF WAY	$2,000,000	2003
WEBSTER	02- 128.00	US-41A	SP	DESIGN	$250,000	2003
WEBSTER	02- 5007.00	PE-9004	SP	CONSTRUCTION	$650,000	2001
WHITLEY	11- 14.00	I-75	NH	DESIGN	$3,000,000	2001
WHITLEY	11- 14.01	I-75	IM	DESIGN	$3,000,000	2001
WHITLEY	11- 120.00	US-25W	SP	UTILITIES	$450,000	2001
WHITLEY	11- 120.00	US-25W	SP	CONSTRUCTION	$4,000,000	2002
WHITLEY	08- 261.10	KY-92	SP	RIGHT OF WAY	$3,000,000	2001
WHITLEY	08- 261.10	KY-92	SP	UTILITIES	$2,000,000	2003
WHITLEY	11- 1042.00	KY-628	BRX	UTILITIES	$25,000	2001
WHITLEY	11- 1042.00	KY-628	BRX	CONSTRUCTION	$300,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	RIGHT OF WAY	$40,000	2002

WHITLEY	11- 1048.00	KY-779	BRX	UTILITIES	$60,000	2002
WHITLEY	11- 5001.00	US-25W	SP	CONSTRUCTION	$125,000	2002
WHITLEY	11- 5002.00	US-25W	SP	RIGHT OF WAY	$30,000	2001
WHITLEY	11- 5002.00	US-25W	SP	UTILITIES	$20,000	2001
WHITLEY	11- 5002.00	US-25W	SP	CONSTRUCTION	$1,500,000	2002
WHITLEY	11- 5007.00	US-25W	SP	DESIGN	$50,000	2004
WOLFE	10- 11.00	KY-15	SP	DESIGN	$2,000,000	2003
WOLFE	10- 126.10	KY-9009	SP	DESIGN	$600,000	2001
WOLFE	10- 126.10	KY-9009	NH	RIGHT OF WAY	$2,000,000	2003
WOLFE	10- 126.20	KY-9009	SP	DESIGN	$600,000	2003
WOODFORD	07- 347.00	-	SP	CONSTRUCTION	$7,948,000	2001
WOODFORD	07- 5005.00	KY-1964	SP	DESIGN	$80,000	2002
WOODFORD	07- 5005.00	KY-1964	SP	CONSTRUCTION	$750,000	2003
ZVARIOUS	99- 24.00	I-64	IM	CONSTRUCTION	$3,500,000	2002
ZVARIOUS	99- 41.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
ZVARIOUS	99- 42.00	-	IM	CONSTRUCTION	$3,500,000	2003
ZVARIOUS	99- 86.05	-	SP	CONSTRUCTION	$35,000,000	2001
ZVARIOUS	99- 86.06	-	SP	CONSTRUCTION	$35,000,000	2002
ZVARIOUS	99- 86.07	-	SP	CONSTRUCTION	$35,000,000	2003
ZVARIOUS	99- 86.08	-	SP	CONSTRUCTION	$35,000,000	2004
ZVARIOUS	99- 121.00	-	NH	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 124.00	-	BRZ	CONSTRUCTION	$875,000	2001
ZVARIOUS	99- 195.03	-	TE	CONSTRUCTION	$12,700,000	2001
ZVARIOUS	99- 195.04	-	TE	CONSTRUCTION	$12,700,000	2002
ZVARIOUS	99- 195.05	-	TE	CONSTRUCTION	$12,700,000	2003
ZVARIOUS	99- 195.06	-	TE	CONSTRUCTION	$12,700,000	2004
ZVARIOUS	99- 206.10	-	SAF	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 206.20	-	SAF	CONSTRUCTION	$5,000,000	2002
ZVARIOUS	99- 207.00	-	NH	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 208.00	-	NH	CONSTRUCTION	$1,000,000	2004
ZVARIOUS	99- 209.00	-	SP	CONSTRUCTION	$5,000,000	2003
ZVARIOUS	99- 212.05	I-75	SP	CONSTRUCTION	$200,000	2001
ZVARIOUS	99- 212.06	I-75	SP	CONSTRUCTION	$200,000	2002
ZVARIOUS	99- 212.07	I-75	SP	CONSTRUCTION	$200,000	2003
ZVARIOUS	99- 212.08	I-75	SP	CONSTRUCTION	$200,000	2004
ZVARIOUS	99- 219.01	-	CM	CONSTRUCTION	$4,200,000	2001
ZVARIOUS	99- 219.02	-	CM	CONSTRUCTION	$6,200,000	2002
ZVARIOUS	99- 219.03	-	CM	CONSTRUCTION	$4,300,000	2003
ZVARIOUS	99- 219.04	-	CM	CONSTRUCTION	$4,400,000	2004
ZVARIOUS	99- 228.00	-	BRZ	CONSTRUCTION	$875,000	2002
ZVARIOUS	99- 233.00	-	BRO	CONSTRUCTION	$550,000	2001
ZVARIOUS	99- 234.00	-	BRO	CONSTRUCTION	$775,000	2002
ZVARIOUS	99- 235.40	-	SP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 235.50	-	SP	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 235.60	-	SP	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 235.70	-	SP	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 242.00	-	STP	CONSTRUCTION	$2,000,000	2001

ZVARIOUS	99- 243.00	-	STP	CONSTRUCTION	$750,000	2002
ZVARIOUS	99- 243.01	-	STP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 243.02	-	STP	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 246.00	-	NH	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 252.00	-	SP	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 253.00	-	SP	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 253.01	-	SP	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 253.02	-	SP	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 258.00	-	SP	CONSTRUCTION	$500,000	2001
ZVARIOUS	99- 259.01	-	SP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 268.00	-	BRO	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 269.00	-	BRO	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 275.00	-	SAF	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 276.00	-	SAF	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 277.00	-	SP	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 278.00	-	SP	CONSTRUCTION	$9,000,000	2002
ZVARIOUS	99- 278.10	-	SP	CONSTRUCTION	$5,000,000	2004
ZVARIOUS	99- 282.00	-	SP	DESIGN	$500,000	2001
ZVARIOUS	99- 283.00	-	SP	DESIGN	$500,000	2002
ZVARIOUS	99- 287.00	-	SP	DESIGN	$300,000	2001
ZVARIOUS	99- 288.00	-	SP	DESIGN	$300,000	2002
ZVARIOUS	99- 290.00	-	STP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 300.00	-	IM	CONSTRUCTION	$4,000,000	2001
ZVARIOUS	99- 301.00	-	IM	CONSTRUCTION	$18,000,000	2002
ZVARIOUS	99- 302.01	-	STP	DESIGN	$100,000	2001
ZVARIOUS	99- 302.01	-	STP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 302.02	-	STP	DESIGN	$50,000	2003
ZVARIOUS	99- 302.02	-	STP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 319.00	-	SP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 320.00	-	SP	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 324.00	-	BRO	CONSTRUCTION	$550,000	2003
ZVARIOUS	99- 325.00	-	BRO	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 326.00	-	BRO	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 327.00	-	BRO	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 330.00	-	FH	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 331.00	-	FH	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 332.00	-	FH	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 333.00	-	FH	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 334.00	-	SP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 335.00	-	SP	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 336.00	-	IM	CONSTRUCTION	$9,000,000	2003
ZVARIOUS	99- 337.00	-	IM	CONSTRUCTION	$15,000,000	2004
ZVARIOUS	99- 338.00	-	SP	DESIGN	$500,000	2003
ZVARIOUS	99- 339.00	-	SP	DESIGN	$500,000	2004
ZVARIOUS	99- 340.00	-	SP	DESIGN	$300,000	2003
ZVARIOUS	99- 341.00	-	SP	DESIGN	$300,000	2004
ZVARIOUS	99- 342.00	-	BRO	DESIGN	$1,000,000	2002

ZVARIOUS	99- 343.00	-	BRO	DESIGN	$1,200,000	2003
ZVARIOUS	99- 344.00	-	BRO	DESIGN	$2,000,000	2004
ZVARIOUS	99- 345.00	-	BRZ	CONSTRUCTION	$875,000	2003
ZVARIOUS	99- 346.00	-	BRZ	CONSTRUCTION	$875,000	2004
ZVARIOUS	99- 347.00	-	BRZ	DESIGN	$400,000	2002
ZVARIOUS	99- 348.00	-	BRZ	DESIGN	$500,000	2003
ZVARIOUS	99- 349.00	-	BRZ	DESIGN	$500,000	2004
ZVARIOUS	99- 350.00	-	NH	DESIGN	$2,000,000	2003
ZVARIOUS	99- 351.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 352.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 353.00	-	SAF	CONSTRUCTION	$7,000,000	2003
ZVARIOUS	99- 354.00	-	SAF	CONSTRUCTION	$7,000,000	2004
ZVARIOUS	99- 355.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 356.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 357.02	-	SP	DESIGN	$200,000	2001
ZVARIOUS	99- 357.03	-	SP	DESIGN	$200,000	2002
ZVARIOUS	99- 357.04	-	SP	DESIGN	$200,000	2003
ZVARIOUS	99- 357.05	-	SP	DESIGN	$200,000	2004
ZVARIOUS	99- 360.00	-	BRO	DESIGN	$1,500,000	2001
ZVARIOUS	99- 1051.00	-	SP	CONSTRUCTION	$450,000	2001
ZVARIOUS	99- 1052.00	-	SP	CONSTRUCTION	$450,000	2002
ZVARIOUS	99- 1060.00	-	BRX	CONSTRUCTION	$250,000	2001
ZVARIOUS	99- 1061.00	-	BRX	CONSTRUCTION	$250,000	2002
ZVARIOUS	99- 1062.00	-	BRX	CONSTRUCTION	$250,000	2003
ZVARIOUS	99- 1063.00	-	BRX	CONSTRUCTION	$250,000	2004
ZVARIOUS	99- 1064.00	-	SP	CONSTRUCTION	$450,000	2003
ZVARIOUS	99- 1065.00	-	SP	CONSTRUCTION	$450,000	2004
ZVARIOUS	99- 1066.00	-	BRX	DESIGN	$500,000	2003
ZVARIOUS	99- 1067.00	-	BRX	DESIGN	$1,000,000	2004
ZVARIOUS	99- 1068.00	-	BRX	CONSTRUCTION	$4,000,000	2004
ZVARIOUS	99- 1069.00	-	BRZ	CONSTRUCTION	$3,700,000	2004
ZVARIOUS	99- 5002.00	-	SP	CONSTRUCTION	$1,000,000	2001
ZVARIOUS	99- 5003.00	-	SP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 5004.00	-	SP	CONSTRUCTION	$1,000,000	2003
ZVARIOUS	99- 5006.00	-	SP	CONSTRUCTION	$1,000,000	2004

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HJR 92** is as follows:

On page 14, line 8, delete line 8 in its entirety;

On page 14, line 9, at the end of line 9, delete fiscal year "2003" and insert fiscal year "2001"; and

On page 14, lines 11 and 12, delete lines 11 and 12 in their entirety.

Representative Worthington moved that the House concur in the Senate Committee Substitute to **HJR 92**. Agreed. Representative Worthington moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HJR 92**. Agreed

Representative Worthington moved that **HJR 92** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See April 1, 1998 roll call on **HJR 92** - Appendix.) **HJR 92**, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to. Representative Worthington moved that the vote by which **HJR 92**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House to recess until 6:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message (Continued)

Message received on **HB 854**: The Senate has refused to recede from its Committee Substitute to **HB 854** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senator Scorsone, Chair; Senators E. Rose and Robinson. (Time: 6:15 p.m.) The Committee on Committees has appointed the following members to serve on a Conference Committee on **HB 854**: Representative Simpson, Chair; Representatives Wayne, Haydon, Reinhardt, and Stine.

The Committee on Committees has appointed the following members to serve on a Conference Committee on **SB 224**: Representative Palumbo, Chair; Representatives Worthington, D. Butler, Brandstetter, and Hoover.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 49, HB 52, HB 90, HB 127, HB 128, HB 160, HB 161, HB 266, HB 282, HB 315, HB 332, HB 423, HB 438, HB 511, HB 551, HB 539, HB 544, HB 582, HB 583, HB 684, HB 689, HB 727,** and **HCR 14** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:20 p.m.) **HB 49, HB 52, HB 90, HB 127, HB 128, HB 160, HB 161, HB 266, HB 282, HB 315, HB 332, HB 423, HB 438, HB 511, HB 551, HB 539, HB 544, HB 582, HB 583, HB 684, HB 689, HB 727,** and **HCR 14** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1998 at 7:26 p.m.

Orders of the Day (Continued)

SB 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **SB 11** be passed.

On the roll call the vote was: Yeas 79, Nays 4 (See April 1, 1998 roll call on **SB 11** - Appendix.) **SB 11** was passed and the title agreed to. Representative Treesh moved that the vote by which **SB 11** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 226**. Agreed.

SB 226, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pope moved the adoption of the House Committee Substitute to **SB 226**. Agreed.

Representative Pope moved that **SB 226**, by way of House Committee Substitute, be passed.

On the roll call the vote was: Yeas 40, Nays 48 (See April 1, 1998 roll call on **SB 226** - Appendix.) **SB 226**, by way of House Committee Substitute, was defeated.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 132, HB 187, HB 200, HB 280, HB 475, HB 532, HB 617, HB 636, HB 756,** and **HB 785** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:50 p.m.) **HB 132, HB 187, HB 200, HB 280, HB 475, HB 532, HB 617, HB 636, HB 756,** and **HB 785** delivered to the Senate and signed by the President. Delivered to the Governor on April 1 at 7:08 p.m.

Orders of the Day (Continued)

HB 393, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Long moved that **HB 393** be passed.

On the roll call the vote was: Yeas 88, Nays 1 (See April 1, 1998 roll call on **HB 393** - Appendix.) **HB 393**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 393**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 226 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Coleman moved the adoption of the following Free Conference Committee Report on **HB 226**. Agreed.

The Free Conference Committee on **HB 226** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted.

Adopt the GA Copy of **HB 226** with the following changes:

On page 8, line 4 after "***customer***" by inserting "." and by deleting the remainder of the line; and

On page 8, by deleting lines 5 to 8 in their entirety.

Signed March 31, 1998: Senators Dan Seum, David Boswell, and Charles Borders; and Representatives Jack Coleman, Joe Clarke, and Lonnie Napier.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Coleman moved that **HB 226**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 72, Nays 21 (See April 1, 1998 roll call on **HB 226** - Appendix.) **HB 226**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 226**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 199**. Agreed.

SB 199, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of House Floor Amendment No. 1 to **SB 199**. Agreed.

Representative Bowling moved that **SB 199**, as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 10 (See April 1, 1998 roll call on **SB 199** - Appendix.) **SB 199**, as amended, was passed and the title agreed to. Representative Bowling moved that the vote by which **SB 199**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **HB 854**.

Representative Stumbo moved that the rules be suspended to consider **SB 121**. On the roll call on the motion to suspend the rules to consider **SB 121** the vote was: Yeas 66, Nays 16 (See April 1, 1998 roll call on **SB 121** - Appendix)

SB 121, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that no amendments be accepted and that **SB 121** be passed.

Representative Zimmerman moved that the previous question on **SB 121** be ordered pursuant to House Rule 12. On the roll call that the previous question on **SB 121** be ordered the vote was: Yeas 27, Nays 54 (See April 1, 1998 roll call on **SB 121** - Appendix) The motion that the previous question on **SB 121** be ordered was rejected.

Representative Stein moved the adoption of House Floor Amendment No. 14 to **SB 121**. On the roll call on House Floor Amendment No. 14 to **SB 121** the vote was: Yeas 24, Nays 69 (See April 1, 1998, roll call on **SB 121** - Appendix.) House Floor Amendment No. 14 to **SB 121** was rejected.

Representative Johns moved the adoption of House Floor Amendment No. 15 to **SB 121**. On the roll call on House Floor Amendment No. 15 to **SB 121** the vote was: Yeas 43, Nays 47 (See April 1, 1998, roll call on **SB 121** - Appendix.) House

Floor Amendment No. 15 to **SB 121** was rejected.

Representative Lindsay moved the adoption of House Floor Amendment No. 17 to **SB 121**. **Speaker ProTempore L. Clark assumed the Chair. The Speaker resumed the Chair.** On the roll call on House Floor Amendment No. 17 to **SB 121** the vote was: Yeas 24, Nays 57. (See April 1, 1998, roll call on **SB 121** - Appendix.) House Floor Amendment No. 17 to **SB 121** was rejected.

Representative Geveden moved the adoption of House Floor Amendment No. 16 to **SB 121**. On the roll call on House Floor Amendment No. 16 to **SB 121** the vote was: Yeas 24, Nays 64. (See April 1, 1998, roll call on **SB 121** - Appendix.) House Floor Amendment No. 16 to **SB 121** was rejected.

Representative Stein moved the adoption of House Floor Amendment No. 1 to **SB 121**. On the roll call on House Floor Amendment No. 1 to **SB 121** the vote was: Yeas 23, Nays 55. (See April 1, 1998, roll call on **SB 121** - Appendix.) House Floor Amendment No. 1 to **SB 121** was rejected.

Representative Napier moved that **SB 121** be passed.

On the roll call the vote was: Yeas 80, Nays 13 (See April 1, 1998 roll call on **SB 121** - Appendix.) **SB 121** was passed and the title agreed to. Representative P. Clark moved that the vote by which **SB 121**was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message received on **SB 199**: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 199** and respectively returns it with the request that this Honorable Body recede from the Amendments. Message received on **SB 247**: The Senate has refused to concur in House Floor Amendment No. 3 and House Floor Amendment No.1 to **SB 247** and respectively returns it with the request that this Honorable Body recede from the Amendments. Message received on **SB 265**: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 265** and respectively returns it with the request that this Honorable Body recede from the Amendments. Message received on **SB 326**: The Senate has refused to concur in House Committee Substitute and House Floor Amendment No. 4 and House Floor Amendment No. 2 Title to **SB 326** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendments. (Time: 8:20 p.m.)

Orders of the Day (Continued)

A Free Conference Committee Report was filed on **HB 455**.

Representative Stumbo moved that the rules be suspended to act upon **SB 217**. Agreed.

SB 217, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the House Committee Substitute to **SB 217**. Agreed.

Representative Damron moved that **SB 217**, by way of Committee Substitute, be passed.

Representative Marzian inquired if **SB 217** required a fiscal note and if it is accounted for in the Budget Bill. Representative Damron replied no.

Representative Marzian moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 217**. On the roll call on House Floor Amendment No. 3 to the House Committee Substitute to **SB 217** the vote was: Yeas 21, Nays 61 (See April 1, 1998, roll call on **SB 217** - Appendix.) House Floor Amendment No. 3 to the House Committee Substitute to **SB 217** was rejected.

Representative Stein moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 217**. On the roll call on House Floor Amendment No. 2 to the House Committee Substitute to **SB 217** the vote was: Yeas 20, Nays 63 (See April 1, 1998, roll call on **SB 217** - Appendix.) House Floor Amendment No. 2 to the House Committee Substitute to **SB 217** was rejected.

Representative Zimmerman moved the previous question. On the roll call on the previous question the vote was: Yeas 28, Nays 47 (See April 1, 1998, roll call on **SB 217** - Appendix.) The motion on the previous question was rejected.

Representative Marzian moved the adoption of House Floor Amendment No. 4 to the House Committee Substitute to **SB 217**. On the roll call on House Floor Amendment No. 4 to the House Committee Substitute to **SB 217** the vote was: Yeas 26, Nays 63 (See April 1, 1998, roll call on **SB 217** - Appendix.) House Floor Amendment No. 4 to the House Committee Substitute to **SB 217** was rejected.

Representative Jordan moved that **SB 217** be laid on the Clerk's Desk. On the roll call that **SB 217** be laid on the Clerk's Desk the vote was: Yeas 17, Nays 70. (See April 1, 1998, roll call on - Appendix.) The motion that **SB 217** be laid on the Clerk's Desk was rejected.

On the roll call on passage of **SB 217** the vote was: Yeas 84, Nays 10 (See April 1, 1998 roll call on **SB 217** - Appendix.) **SB 217**, by way of Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **SB 217**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 380** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:40 p.m.)

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions. Agreed.

Introduction of Resolutions

HR 158, by Representative Riggs: A RESOLUTION adjourning the House of Representatives in honor of the Jeffersontown High School Lady Chargers for making their first appearance in the Sweet Sixteen of the Girls' High School Basketball Tournament.

HR 159, by Representatives Marzian, Barrows, Ballard, Palumbo, Jenkins, Stumbo, Thomas, and Wilkey: A RESOLUTION urging the Legislative Research Commission to conduct a study to assess the impact of the Commonwealth of Kentucky's participation in the Southern Dairy Compact.

HR 160, by Representative Riner: A RESOLUTION relating to the Kentucky Volunteer Service Award.

Representative Stumbo moved that when the House does adjourn on this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 11:00 a.m. on April 2, 1998. Agreed.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 260**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Betty Updike upon the completion of twenty-seven years of dedicated service to the Commonwealth of Kentucky, including twenty-five exceptional years to the Legislative Research Commission. This exemplary lady has rendered many valuable contributions to this agency through her tireless service. She was a pioneer in the area of bill processing, working as one of the first people ever to key bills and statutes into an automated computer system and trained many other employees in office automation. Further, she is the unsung hero behind the automation of virtually all forms and paperwork involved in the legislative process and continues to write macro code in an effort to further automate repetitive word processing tasks. In addition to all these accomplishments, she is a valuable member of the LRC Help Desk, garnering many phone calls every day and assisting employees all over the agency with computer problems. Betty Updike is held in high esteem not only by the members of this body but by all employees of the Legislative Research Commission for the kind and cheerful manner with which she has served. The members of this distinguished body are honored to join with Representative Gippy Graham in paying tribute to the stellar career of Betty Updike and in extending to her best wishes for continued success in all future endeavors. **Legislative Citation No. 260** was adopted without objection.

Representative D. Graham moved the adoption of the following **Legislative Citation No. 217**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Matthew Martin, National Finalist 1998 Elks National "Hoop Shoot". Whereas, over 3.5 million nationwide participants competed in this year's Free-Throw Contest; and whereas, Matthew Martin has progressively advanced against local, district, and state competitors, ultimately winning the State finals in Frankfort, Kentucky; and whereas, this remarkable young citizen triumphed over all competitors to win the four-state Regional finals; and whereas, he is one of only seventy-two individuals to qualify for the National finals held in Springfield, Massachusetts; therefore, this prestigious body joins Representative Drew Graham in honoring this talented athlete, representing Frankfort Elks #530, for his stellar performance in the 10-11-year-old Boys Division, and in wishing him the best of luck at the National finals and in all future endeavors. **Legislative Citation No. 217** was adopted without objection.

The following member filed a request to have his name added as co-sponsor of a Bill under rules previously suspended: **HB 318**, Representative Vincent.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gray moved that his vote be changed from "yea" to "nay" on **HB 293**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 667, HB 258** and **HB 562**. Agreed. Representative Palumbo moved that she be recorded as voting "yea" on **SB 186, HB 2, SB 164, HB 410, HB 564, SB 328,** and **SCR 95**. Agreed.

Representative Stine moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Stine moved that she be recorded as voting "yea" on **HB 771** and **SB 263**. Agreed.

Representative Jenkins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jenkins moved that her vote be changed from "yea" to "nay" on **SB 11**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Thomas moved that he be recorded as voting "yea" on **SB 199**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Collins moved that he be recorded as voting "yea" on **SB 395**. Agreed.

Representative Moberly moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Moberly moved that he be recorded as voting "nay" on **HB 562** and **HB 90**. Agreed. Representative Moberly moved that he be recorded as voting "yea" on **SB 247**. Agreed. Representative Moberly moved that his vote be changed from "yea" to "nay" on **HB 293**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 810**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Vincent moved that he be recorded as voting "nay" on **HB 900**. Agreed. Representative Vincent moved that he be recorded as voting "yea" on **HB 810, HB 536, HB 468, HB 471, HB 272, HB 273** and **HCR 11**. Agreed. Representative Vincent moved that he be recorded as voting "yea" to "abstain" on **SB 263**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lindsay moved that he be recorded as voting "yea" on **HB 536, HB 468, HB 471, HB 273, HB 272,** and **HCR 11**. Agreed.

Representative Bratcher moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bratcher moved that his vote be changed from "nay" to "yea" on **HB 230**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **HB 230, HB 510, HB 519, HB 740, HB 460, HB 779, HB 815,** and **HJR 92**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that her vote be changed from "nay" to "yea" on **HB 900**. Agreed.

Representative Miller moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Miller moved that his vote be changed from "nay" to "yea" on the motion to suspend the rules on **SB 177**. Agreed.

Representative Polston moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Polston moved that his vote be changed from "nay" to "yea" on **HB 315**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lee moved that he be recorded as voting "yea" on **SB 247**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lindsay moved that he be recorded as voting "nay" on **HB 810** and **HB 900**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that his vote be changed from "nay" to "yea" on **SB 226**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cave moved that he be recorded as voting "yea" on **SB 247**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative DeWeese moved that his vote be changed from "yea" to "nay" on **HB 337**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that he be recorded as voting to "yea" rather than abstaining on **HB 273, HB 272, HB 471, HB 468, HB 536, HB 900, HB 810**, and **HCR 11**. Agreed.

Representative Lovell moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lovell moved that he be recorded as voting "yea" on **HB 273, HB 272, HB 471, HB 468, HB 536, HB 900,** and **HB 810**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **SB 53, SB 396, SB 21, SB 186, SB 263,** and **SB 221**. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn until 11:00 a.m., April 2, 1998.

The motion that the House adjourn until 11:00 a.m., April 2, 1998 was adopted by voice vote.

THURSDAY, APRIL 2, 1998

FIFTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Pete Coleman, Florence Baptist Church, Florence.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Hatcher, Horlander and Miniard.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of April 1, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

A Free Conference Committee Report was filed on **HB 320**. A Conference Committee Report was filed on **SB 224**. A Free Conference Committee Report was filed on **HB 321**.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 53, HB 226, HB 272, HB 273, HB 393, HB 468, HB 471, HB 536, HB 810, HB 900, HCR 11,** and **HJR 92** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:45 a.m.) **HB 53, HB 226, HB 272, HB 273, HB 393, HB 468, HB 471, HB 536, HB 810, HB 900, HCR 11,** and **HJR 92** delivered to the Senate and signed by the President. Delivered to the Governor on April 2, 1998 at 12:52 p.m.

Representative Yonts moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Yonts moved the adoption of the following **Legislative Citation No. 262**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Muhlenberg North High School JROTC Drill Team upon visiting the Capitol in Frankfort to witness a day in the 1998 Kentucky General Assembly and to perform for the members of the Kentucky House of Representatives. It is with delight and not without a certain pride that the accomplishments and accolades earned and received by this drill team, whose composition includes squad, platoon and color guard, are hereby mentioned: the platoon won the marching competition in the Madisonville, Kentucky, Veterans Day Parade; the armed platoon won the National Armed Platoon competition at the National American Legion Coca-Cola Drill Meet, competing against 109 schools in Montgomery, Alabama; the drill team won the Clarksville, Tennessee Drill Meet, the University of Kentucky Drill Meet--competing against the best teams from a four-state area, won both the Apollo and the Kentucky Drill Meets held in Owensboro, Kentucky; and accumulated a total of 33 trophies throughout the year--the most ever won by a Muhlenberg North High School Drill Team. These exemplary young cadets have proven themselves a truly remarkable JROTC Drill Team by their attainment of such high honors. The members of this distinguished body are indeed pleased to join with Representative Brent Yonts in applauding their accomplishments and in extending best wishes for continued success in the future. **Legislative Citation No. 262** was adopted without objection.

Representative Palumbo moved that the Conference Committee Report on **SB 224** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the following members to the Free Conference Committee on **SB 224**: Representative Palumbo, Chair; Representatives Worthington, D. Butler, Brandstetter, and Hoover.

Orders of the Day

SB 247, with House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed.

Representative Barrows moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 247**. Agreed. Representative Barrows moved that the House refuse to recede from House Floor Amendment No. 3 to **SB 247**. Agreed. The Committee on Committees appointed the following members to serve on a Conference Committee on **SB 247**: Representative D. Graham, Chair; Representatives Worthington, Sims, D. D. Butler, and Turner.

SB 326, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed.

Representative Siler moved that the House refuse to recede from House Committee Substitute to **SB 326**. Agreed. Representative Siler moved that the House refuse to recede from House Floor Amendment No. 4 to the House Committee Substitute to **SB 326**. Agreed. Representative Siler moved that the House refuse to recede from House Floor Amendment No. 2 Title to the House Committee Substitute to **SB 326**. Agreed. The Committee on Committees appointed the following members to serve on a Conference Committee on **SB 326**: Representative Clarke, Chair; Representatives Geveden, Jenkins, Zimmerman, and Siler.

SB 265, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed.

Representative D. Butler moved that the House recede from House Floor Amendment No. 1 to **SB 265**. Agreed.

Representative Rasche moved that **SB 265** be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See April 2 , 1998 roll call on **SB 265** - Appendix.) **SB 265** was passed and the title agreed to. Representative Rasche moved that the vote by which **SB 265** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess until 1:30 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 21, SB 33, SB 53, SB 177, SB 186, SB 221, SB 227, SB 248, SB 263, SB 303, SB 309, SB 374, SB 396, SCR 126** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -1:50 p.m.)

Orders of the Day (Continued)

Representative Bowling moved that the Free Conference Committee on **HB 455** be appointed and reconvene. Agreed. The Speaker announced the appointment of the previously appointed members of the Free Conference Committee on **HB 455**.

Representative A. Arnold moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative A. Arnold moved the adoption of the following **Legislative Citation No. 267**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Mike Kindred upon being selected as The Courier-Journal's Coach of the Year for his extraordinary guidance and support of the Montgomery County High School Lady Indians Basketball Team. A former assistant coach at both Alabama and Kentucky, Coach Mike Kindred has led his team to three consecutive 10th Region Titles and numerous titles, including the Berea Classic, the Ashland Invitational and the Northern Kentucky Classic. Despite the frequent injuries of one his top players, this exceptional coach and team continued to claim victories throughout the season. Inasmuch as the accomplishments of Coach Mike Kindred have brought great honor and acclaim to the Montgomery County High School basketball program, the members of this distinguished body are delighted to join with Representative Adrian Arnold in applauding the efforts of this talented coach and in extending to him best wishes for continued athletic victories. **Legislative Citation No. 267** was adopted without objection.

Representative Siler moved the adoption of the following **Legislative Citation No. 268**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Amanda Helton for demonstrating an exemplary interest in the democratic process and in the daily actions of our Kentucky legislature. This outstanding student has endeavored to broaden her understanding of democracy and government and is commended for her effort to do so. Amanda Helton descends from a long line of distinguished Kentucky citizens; she is the descendent of John Sharpe, the first elected Representative from Whitley County, District 84, in 1820. In addition, the brother of her great-grandmother, Nona Sharpe Helton, was Clifford Sharpe, who served one term as the last elected Representative from Whitley County, District 84, and a second term from the current District 82. The members of this august body are pleased to join with Representative Charles L. Siler in applauding the initiative of Amanda Helton, who fulfilled page duties on Friday, March 27, 1998, and in extending best wishes that she someday follow in the grand footsteps of her esteemed relatives. **Legislative Citation No. 268** was adopted without objection.

Representative Riggs moved that the rules be suspended to act upon a Resolution. Agreed. Representative Riggs moved the adoption of the following **HR 158**:

HR 158, A RESOLUTION adjourning the House of Representatives in honor of the Jeffersontown High School Lady

Chargers for making their first appearance in the Sweet Sixteen of the Girls' High School Basketball Tournament.

WHEREAS, the Lady Chargers' outstanding season record of 26 victories and only 8 losses is uniquely spectacular and noteworthy; and

WHEREAS, the Lady Chargers' recent appearance in the Sweet Sixteen continues their winning tradition of thirteen straight District Championships; and

WHEREAS, the Sweet Sixteen of the Girls' High School Basketball Tournament was played at Eastern Kentucky University in Richmond, Kentucky; and

WHEREAS, the Lady Chargers emerged victorious in their first game of the Tournament against Warren East on March 11, 1998, in a phenomenal overtime win of 59-50; and

WHEREAS, the Lady Chargers went on to play Boone County on March 13, 1997, and put up a commendable defense only to lose 48-39; and

WHEREAS, the character displayed by the Lady Chargers, especially that of Shanta Bowens, one of the most valuable players of the team, exemplifies the best qualities of youth and inspires all students of the Commonwealth; and

WHEREAS, Principal William Perkins, Coach John Kyser, Assistant Coaches Lou Wheeler and Stacy Pendelton, and all Kentuckians are justifiably proud of the accomplishments of the Lady Chargers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives adjourns this day in honor of the Jeffersontown High School Lady Chargers' outstanding achievement in reaching the prestigious Sweet Sixteen of the Girls' High School Basketball Tournament.

Section 2. The House of Representatives hails the Lady Chargers' dedication and team spirit and encourages them to continue their spectacular efforts.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Principal William Perkins, Jeffersontown High School, 9600 Old Six Mile Lane, Louisville, KY 40299.

There being no objection **HR 158** was adopted.

Representative D. Graham moved that the Conference Committee Report on **SB 247** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 247**.

Senate Message (Continued)

Announcing passage of **SCR 197**. Message received on **HB 48**: The Senate has adopted the Free Conference Committee Report on **HB 48** and is notifying this Honorable Body that it has repassed the bill as amended in the free conference. Message received on **HB 63**: The Senate has adopted the Free Conference Committee Report on **HB 63** and is notifying this Honorable Body that it has repassed the bill as amended in the free conference. Message received on **HB 74**: The Senate has adopted the Majority Free Conference Committee Report on **HB 74** and is notifying this Honorable Body that it has repassed the bill as amended in the free conference. Message received on **HB 320**: The Senate has adopted the Free Conference Committee Report on **HB 320** and is notifying this Honorable Body that it has repassed the bill as amended in the free conference. (Time: 2:00 p.m.)

Orders of the Day (Continued)

Representative Marzian moved the adoption of the following **HR 159**:

HR 159, A RESOLUTION urging the Legislative Research Commission to conduct a study to assess the impact of the Commonwealth of Kentucky's participation in the Southern Dairy Compact.

WHEREAS, the 1998 General Assembly has supported and passed SB 304 which authorizes Kentucky to enter into a Southern Dairy Compact with certain other states in the South, upon approval from the United States Congress; and

WHEREAS, it would be beneficial to Kentucky dairy farmers and the citizens of this great Commonwealth to confront issues relating to the price of raw milk, the price of bottled milk, the amount of milk imported as a finished product, and the amount of additional income received for each class of dairy producer in Kentucky; and

WHEREAS, in order to assess the impact the Southern Dairy Compact will have on the citizens of Kentucky and its dairy farmers, it would be in the best interest of the Commonwealth for the Legislative Research Commission to conduct a study relating to the above issues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body requests that an appropriate interim joint committee of the Legislative Research Commission should conduct a study relating to issues including the price of raw milk, the price of bottled milk, the amount of milk imported as a finished product, and the amount of additional income received for each class of dairy producer. The appropriate interim joint committee should interview producers, processers, retailers, consumers, school district personnel, child-care providers and advocates. The committee should also investigate possible options available or those that might be developed for needs-based assistance to those dairy producers to be considered most at risk.

Section 2. The findings and recommendations of the appropriate interim joint committee should be presented to the Legislative Research Commission no later than October 1, 1999.

There being no objection **HR 159** was adopted.

Representative Riner moved the adoption of the following **HR 160**:

HR 160, A RESOLUTION relating to the Kentucky Volunteer Service Award.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky "Kentucky Volunteer Service Award" is hereby created.

Section 2. The Kentucky Volunteer Service Award shall be presented to any individual with over two hundred (200) hours of documented volunteer service performed for the benefit of any government agency, school, scouting, religious, civic, or fraternal organization or other nonprofit agency. Documentation shall be made in writing by an officer or employee of the organization for which the service is rendered. Service for more than one (1) organization may be combined in order to meet the requirements for this award.

Section 3. The award shall be presented, as provided above, upon the written request of any member of the House of Representatives to the Speaker of the House when the House is in session or to the Director of the Legislative Research Commission when the House is not in session. A vote of the House shall not be necessary in order for the award to be presented.

Section 4. The award may be presented retroactively to any person who has over two hundred (200) hours of documented volunteer service as provided in Section 2 of this resolution and who has received the recommendation of a member of the House of Representatives.

Section 5. Service ordered by a court as punishment or in lieu of a criminal or juvenile proceeding shall not be eligible for computation under this program.

There being no objection **HR 160** was adopted.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 261**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes William E. "Bunny" Davis and expresses deep-felt gratitude for his many years of loyal and exemplary service as Chief Doorkeeper for the House Chambers. Always the gentleman, "Bunny" Davis worked his first Regular Session in 1976 and has, through the ensuing years, earned the respect of all those passing through these august doors. The House of Representatives welcomes the opportunity to join with Majority Leadership Members in paying tribute to William "Bunny" Davis as the Regular Session of the Kentucky General Assembly draws to a close. **Legislative Citation No. 261** was adopted without objection. Roll call to show co-sponsors of Legislative Citation No. 261: (See April 2, 1998, roll call on **Legislative Citation No. 261** - Appendix.)

Representative Riner moved that the rules be suspended to withdraw as a co-sponsor to **HB 70**. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 257**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Bee Hive Homes and welcomes this unique housing facility for senior citizens to Lawrenceburg, Kentucky. Bee Hive Homes is commended for providing an excellent opportunity for our senior Kentuckians to enjoy a quality lifestyle in a comfortable and affordable setting. The entire membership of this honorable body joins with Representative Jack Coleman in paying tribute to this excellent facility and in extending best wishes for its monumental success. **Legislative Citation No. 257** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 266**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of John Peter Frank, III and joins with Representative Ruth Ann Palumbo in expressing its deepest sympathy to all who share in the loss on the passing of this loving husband of Sandra Kinney Frank; devoted father of Linda Frank Gearon, Kathleen Ramsey Frank, Paula Ruth Frank and Virginia House Frank; cherished brother of Emily Frank Clark and Margery Frank Dinsmore; and special friend of sister-in-law Ruth Garland Frank, brother-in-law Howard Kinney, business partner Robert P. Trinler, and "Dixie" and "Holly." He was preceded in death by his beloved parents, Allen "Tot" Frank and Emma Tutt Frank and two brothers, Paul K. Frank and Allen K. Frank. A member of the American Institute of Certified Public

Accountants, Kentucky Society of Certified Public Accountants, Lexington Estate Planning Council, Greater Lexington Chamber of Commerce, and an appointee of Governor Paul E. Patton to the 22nd Judicial District Nominating Committee, he was a certified public accountant with the firm of Frank and Trinler. He was a graduate of the University of Kentucky and was an avid football fan and lifelong supporter of the University of Kentucky football program. His memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow. **Legislative Citation No. 266** was adopted without objection.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ballard moved that his vote be changed from "nay" to "yea" on the motion to suspend the rules to consider Floor Amendment No. 15 on **SB 177**. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bruce moved that he be recorded as voting "yea" on the motion to suspend the rules to consider Floor Amendment No. 15 to **SB 177**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Adams moved that his vote be changed from "nay" to "yea" on **SB 121**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Riggs moved that he be recorded as voting "yea" on **SB 121** and **SB 217**. Agreed.

Representative Turner moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Turner moved that his vote be changed from "nay" to "yea" on **HB 810**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Callahan moved that he be recorded as voting "yea" on **SB 227**. Agreed.

HB 48 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Simpson moved the adoption of the following Free Conference Committee Report on **HB 48**. Agreed.

The Free Conference Committee on **HB 48** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 48** and the provisions of the Senate Floor Amendment No. 1 to **HB 48**.

Signed March 31, 1998: Senators Denny Nunnelley, Ernesto Scorsone, and Albert L. Robinson; and Representatives Arnold Simpson, Thomas R. Kerr, Richard Murgatroyd, Larry Brandstetter, and Jim Wayne.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Murgatroyd moved that **HB 48**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 80, Nays 6 (See April 2, 1998 roll call on **HB 48** - Appendix.) **HB 48**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative Murgatroyd moved that the vote by which **HB 48**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 63 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative A. Arnold moved the adoption of the following Free Conference Committee Report on **HB 63**. Agreed.

The Free Conference Committee on **HB 63** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 63** with the following changes:

On page 24, line 4, after "(11)" by inserting "***(a)***" and after "billboards," by placing an opening bracket before and striking through "a radio or"; and

On page 24, line 5, by striking through and placing a closing bracket after "television station or network,"; and

On page 24, line 11, after "purchaser." by inserting the following:

"***(b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the***

documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.

(c)"; and

On page 24, line 11, after "information" by inserting "***required to be reported by paragraphs (a) and (b) of this subsection***" and after "be" by inserting "***in the hands of the registry or postmarked not later than***" and by placing an opening bracket before and striking through "reported to"; and

On page 24, line 12, by striking through and placing a closing bracket after "the registry on the thirtieth day preceding and" and after "primary" by inserting "***, runoff primary,***"; and

On page 24, line 13, after "elections" by inserting "***that are held***"; and

On page 24, line 14, after "occurs." by inserting "***(d)***"; and

On page 24, line 16, after "Governor." by inserting "***(e)***"; and

On page 27, after line 27, by inserting the following:

"Section 5. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use such funds other than in support of the party's candidates in a general election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each general election, forward to the Registry of Election Finance a report of:

   (a) The unexpended and unobligated balance of such remitted funds; and

   (b) An itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of fifty dollars ($50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance ***may***[~~shall~~] annually audit the accounts and records of receipts and expenditures of funds ***in the amount of one thousand five hundred dollars ($1,500) or less that are*** remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073***. The registry***[~~ and~~] shall ***annually audit the accounts and records of receipts and expenditures of funds in the amount of more than one thousand five hundred ($1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall*** report the results of each audit ***conducted*** to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.".

Signed April 1, 1998: Senators Joey Pendleton, Gary Johnson, and Albert L. Robinson; and Representatives Adrian Arnold, Allen Maricle, Joe Clarke, Danny Ford, and Freed Curd.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative A. Arnold moved that **HB 63**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 84, Nays 3 (See April 2, 1998 roll call on **HB 63** - Appendix.) **HB 63**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **HB 63**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 74 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The following Minority Free Conference Committee Report was filed on **HB 74**:

The Free Conference Committee on **HB 74** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Delete the provisions of **HB 74/GA** and adopt the provisions of **SB 275/GA**.

Signed April 1, 1998: Senator Charlie Borders.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Collins moved the adoption of the following Majority Free Conference Committee Report on **HB 74**. Agreed.

The Free Conference Committee on **HB 74** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 74**.

Signed April 1, 1998: Senators Bob Jackson and Kim L. Nelson; and Representatives Hubert Collins, Jimmie Lee, Mark Treesh, Jim Zimmerman, and Paul Mason.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Collins moved that **HB 74**, as amended by the Majority Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See April 2, 1998 roll call on **HB 74** - Appendix.) **HB 74**, as amended by the Majority Free Conference Committee Report, was passed and the title agreed to. Representative Collins moved that the vote by which **HB 74**, as amended by the Majority Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 199, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed.

Representative Bowling moved that the House recede from House Floor Amendment No. 1 to **SB 199**. Agreed.

Representative Bowling moved that **SB 199** be passed.

On the roll call the vote was: Yeas 78, Nays 13 (See April 2, 1998, roll call on **SB 199** - Appendix.) **SB 199** was passed and the title agreed to. Representative Bowling moved that the vote by which **SB 199** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Clarke moved that the Conference Committee Report on **SB 326** requesting a Free Conference be adopted. Agreed. The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 326**.

A Free Conference Committee Report was filed on **SB 224**. A Conference Committee Report was filed on **SB 247**. A Conference Committee Report was filed on **SB 326**. A Second Free Conference Committee Report was filed on **HB 455**.

HB 320 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **HB 320**. Agreed.

The Free Conference Committee on **HB 320** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 320** with the following changes:

Beginning on page 1, line 1, through page 8, line 19, of **HB 320**/SCS, by deleting those lines in their entirety and inserting in lieu thereof the following:

"PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund and for services performed by the Circuit Clerk's offices, including both Circuit and District Court support. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

	1998-99	1999-00

1. Court of Justice

a. Court operations and administration

General Fund	118,598,100	128,152,600
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	123,610,100	133,036,600

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1998-99 and in fiscal year 1999-2000 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices, judges, and circuit clerks in fiscal year 1998-99 and a five percent (5%) adjustment for the justices, judges, and circuit clerks in fiscal year 1999-2000. Restricted funds of $700,000 in each fiscal year are included for the Jefferson County Court technology improvement system as described in Part II, Capital Projects Budget.

b. Local facilities fund

	1998-99	1999-00
General Fund	27,091,500	32,934,100

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into fiscal year 1998-99 and any unexpended balance at the close of fiscal year 1998-99 shall not lapse, but shall be continued into fiscal year 1999-2000.

	1998-99	1999-00
Total Court of Justice		
General Fund	145,689,600	161,086,700
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	150,701,600	165,970,700

2. Judicial Form Retirement System

	1998-99	1999-00
General Fund	6,407,500	6,418,000

General Fund amounts are included to provide for the 1997 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $135,000 in each fiscal year contingent upon passage of enabling legislation related to the judicial retirement plan.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	152,097,100	167,504,700
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
TOTAL	157,109,100	172,388,700

PART II

CAPITAL PROJECTS BUDGET

A. Court Facility Use Allowance Contingency Fund

	1998-99	1999-00
General Fund	500,000	1,422,500

General Fund amounts are included to provide for cost overruns in court facility projects authorized by the 1996 General Assembly and the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun, not to exceed fifteen percent (15%), shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as required for any authorized cost overruns.

B. Court Designated Worker Case Management System

	1998-99

General Fund	500,000

General Fund amounts are appropriated in the capital budget for implementation of the court designated worker case management system. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation of the court designated worker case management system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

C. Jefferson County Court Technology Improvement System

	1998-99	1999-00
Restricted Funds	700,000	700,000

Restricted Funds are included in the Operating Budget for implementation of the Jefferson County court technology improvement system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation for the Jefferson County court technology improvement system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

D. Local Facility Projects

Multiyear schedule for the use allowance payments for the capital costs for each local facility project is contained in the Judicial Branch Budget Memorandum.

1.	Bell County - Project Scope	6,393,200
2.	Christian County - Project Scope	9,560,800
3.	Project Pool - Project Scope	18,507,300
4.	Henderson County - Project Scope	8,019,800
5.	Kenton County Phase II - Project Scope	4,515,600
6.	Marshall County - Project Scope	7,383,800
7.	Harrison County - Project Scope	6,152,000
8.	Boone County - Project Scope	7,971,900
9.	Fayette County - Revised Scope	62,500,000
10.	Lyon County - Project Scope	4,758,500
11.	McCreary County - Project Scope	5,183,100
12.	ADA Pool - Project Scope	3,952,200
13.	Harlan County - Project Scope	5,857,400
14.	Lewis County - Project Scope	5,299,700
15.	McLean County - Project Scope	3,752,100
16.	Lincoln County - Revised Scope	2,260,000
17.	Mason County - Revised Scope	4,531,700
18.	Franklin County - Lease Office Space (Millcreek Park)	
19.	Franklin County - Lease Court of Appeals (Democrat Drive)	

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Court Facility Use Allowance Contingency Fund. In the event funds are not available in the Court Facility Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense.

Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

The Fayette County Courthouse project is expanded in scope from $47,100,000 as authorized by the 1996 General Assembly to $62,500,000. Use allowance payments shall be based on the expanded scope and shall be set at the annual level of $4,000,000; of this sum, $500,000 is appropriated in fiscal year 1999-2000 from the local facilities fund as use allowance on the Fayette County Courthouse parking garage. General Fund support in the Local Facilities Fund is reduced by $1,342,000 in the current biennium which represents $1,242,000 for 2 months' use allowance on the Fayette County Courthouse building, which due to delays in construction, will not be occupied in the 1998-2000 fiscal biennium, and $106,000 reduction to bring the annual level of use allowance on the parking garage to $500,000. Notwithstanding enabling legislation, the expanded project authorization shall not be increased to exceed the authorized project scope of $62,500,000.

Authorization is granted for the expansion of the Kenton County Courthouse Project from $26,494,000, as authorized by the 1996 General Assembly, to $31,009,600. Corresponding use allowance payments and related operating expenses totaling $696,000 shall be deferred to the next biennium.

Authorization is granted to expand the project scope of the Lincoln County Courthouse Project to $2,260,000. The expanded project authorization shall not exceed $2,260,000, notwithstanding any legislation enacted during the 1998 Regular Session that would otherwise permit such an increase.

New courthouse projects are authorized in Bell, Christian, Henderson, Harrison, McCreary, Marshall, Lyon, Boone, Harlan, Lewis, and McLean Counties, as well as, a project pool consisting of new or renovation projects in Allen, Bourbon, Casey, Hickman, Elliott, Menifee, and Webster Counties. General Fund support to provide use allowance payments and related operating expense is deferred to the 2000-2002 fiscal biennium on these projects, with the exceptions of: (a) Henderson County Courthouse Project, for which use allowance/net funding requirements are provided based on a June 1, 2000 occupancy date, totaling $491,000 in fiscal year 2000; and (b) Mason County Courthouse Project, which shall be funded from the Current Services budget in the Local Facilities Fund totaling, $131,000 in fiscal year 1999-2000.

The unexpended balance in the Contingency Fund at the end of fiscal year 1998-99 shall not lapse and shall be continued into fiscal year 1999-2000. If the use allowance on project cost over-runs exceeds available funds in the Contingency Fund, additional use allowance funding requirements shall become a necessary governmental expense.

TOTAL - CAPITAL PROJECTS BUDGET

	1998-99	1999-00
General Fund	1,000,000	1,422,500
Restricted Funds	700,000	700,000
TOTAL	1,700,000	2,122,500

TOTALS - JUDICIAL BRANCH BUDGET

	1998-99	1999-00
General Fund	153,097,100	168,927,200
Restricted Funds	5,102,000	5,140,000
Federal Funds	610,000	444,000
TOTAL FUNDS	158,809,100	174,511,200

PART III

GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriation contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal accounts at the close of the fiscal years ending June 30, 1998, and June 30, 1999, shall not lapse but shall continue into the next fiscal year.

7. Proposed revisions to restricted and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1998-2000 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.".

Signed April 1, 1998: Senators Larry Saunders, David K. Karem, Benny Ray Bailey, Elizabeth Tori, Richard Roeding, and Dan Kelly; and Representatives Jim Callahan, Larry Clark, Jody Richards, Joe Barrows, Harry Moberly, Jr., Stanton L. Cave, Woody Allen, and Danny Ford.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 320**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 85, Nays 1 (See April 2, 1998 roll call on **HB 320** - Appendix.) **HB 320**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 320**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **HB 455**.

HB 455 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Bowling moved the adoption of the following Second Free Conference Committee Report on **HB 455**. The House was not in possession of the Bill.

Representative Stumbo moved that the rules be suspended to act upon **SB 224**. Agreed.

SB 224 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Palumbo moved the adoption of the following Free Conference Committee Report on **SB 224**. Agreed.

The Free Conference Committee on **SB 224** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 224**.

Signed April 2, 1998: Senators Dan Seum, Virgil Moore, and Dan Kelly; and Representatives Ruth Ann Palumbo, Jeffrey Hoover, Denver Butler, Larry Brandstetter, and Pete Worthington.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Palumbo moved that **SB 224**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See April 2, 1998 roll call on **SB 224** - Appendix.) **SB 224**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative Palumbo moved that the vote by which **SB 224**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Johns moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 161, by Representatives Johns, Marzian, Jordan, Jenkins, Palumbo, Stein, Sims, Rader and Colter: A RESOLUTION urging the Cabinet for Economic Development to retain the Task Force on Businesses Owned by Women in Kentucky and continue its important work.

Representative Johns moved the adoption of the following **HR 161**:

HR 161, A RESOLUTION urging the Cabinet for Economic Development to retain the Task Force on Businesses Owned by Women in Kentucky and continue its important work.

WHEREAS, the 1994 General Assembly created a Task Force on Businesses Owned by Women in Kentucky to develop a better understanding of this growing segment of our economy; and

WHEREAS, the Task Force on Businesses Owned by Women in Kentucky commissioned a statewide survey that was designed and conducted by the University of Louisville Urban Studies Institute and the University of Kentucky Center for Business and Economic Research; and

WHEREAS, the Task Force on Businesses Owned by Women in Kentucky also held a series of nine public forums in Ashland, Aurora, Bowling Green, Covington, Hazard, Lexington, Louisville, Madisonville, and Somerset to give Kentucky women a chance to share information about the rewards and challenges of business ownership; and

WHEREAS, the Task Force on Businesses Owned by Women in Kentucky reviewed the national situation, finding that Kentucky women are part of a country-wide trend toward increasing numbers of women business owners; and

WHEREAS, the most frequently cited barriers to women-owned businesses are the availability of capital and employment of qualified employees; a majority of the women said that services designed for women business owners would be of benefit, particularly those in the area of financial counseling; and

WHEREAS, the Task Force on Businesses Owned by Women in Kentucky made recommendations which upon implementation would facilitate government support for women-owned businesses throughout the state, but the Task Force has yet to see the full accomplishment of its vision for Kentucky women;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Economic Development is urged to retain the Task Force on Businesses Owned by Women in Kentucky and continue its important work to develop a government which is more responsive to women-owned businesses.

Section 2. The Cabinet for Economic Development is authorized to use such funds, public or private, as may be available for the purposes of retaining the Task Force on Businesses Owned by Women in Kentucky.

There being no objection **HR 161** was adopted.

Representative Siler moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Siler moved that he be recorded as voting "yea" on **HB 320**. Agreed.

Representative Weaver moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION in recognition of the 223rd anniversary of the United States Army.

WHEREAS, the United States Army was established by the First Continental Congress on the 14th day of June, 1775; and

WHEREAS, the Congress directed that "...two companies of expert riflemen be immediately raised...in Virginia...as soon as compleated, march and join the army near Boston, to be there employed as light infantry... to assist our brethren in expelling the tyranny of the British Army;" and

WHEREAS, the United States Army remains the primary military service to project and establish land power in the defense of our citizens' freedoms and our nation's security interests; and

WHEREAS, as members of the United States Army, many citizens of the Commonwealth of Kentucky have served their nation and given the ultimate sacrifice in defense of our freedoms; and

WHEREAS, it is proper to recognize the United States Army annually on its birthday, and to thank those who have served and those who are presently serving;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby recognize June 7-14, 1998, as United States Army week, and that the weekend of June 13-14, 1998, be set aside for celebration in the Commonwealth of Kentucky as the 223rd Army birthday weekend.

Section 2. The House of Representatives is honored and privileged to recognize this very important anniversary of the United States Army. Kentuckians who have served before, those presently serving, and those that have sacrificed their lives for the precious freedoms we possess, have our perpetual gratitude and deepest appreciation. The security the United States Army in Fort Knox, Kentucky, has afforded our great Commonwealth is beyond measure and has had lasting impact on our citizens.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the 223rd anniversary of the United States Army.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Richard A. Lewis, 4582 S. Wilson Road, P.O. Box 848, Radcliff, Kentucky 40159.

There being no objection **HR 152** was adopted.

Representative Reinhardt moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Reinhardt moved that he be recorded as voting "yea" on **SB 224**. Agreed.

Representative Reinhardt moved that his vote be changed from "nay" to "yea" on **SB 304**. Agreed.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Palumbo moved the adoption of the following **Legislative Citation No. 263**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes and honors the University of Kentucky Wildcats Basketball Team and expresses delight that the phenomenal "Comeback Cats" are present today in the House Chambers during the Regular Session of the 1998 Kentucky General Assembly to share in the continuing victory celebration of their heart-stopping 78-69 win over Utah in the NCAA Championship Tournament. This prestigious body is pleased to join

Representative Ruth Ann Palumbo in extending enthusiastic congratulations to Coach Tubby Smith, the extraordinary members of this Championship Wildcat Basketball Team and all those who have so ably and generously contributed to the grand tradition of Kentucky basketball. **Legislative Citation No. 263** was adopted without objection.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 264**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers an enthusiastic welcome to the members of the University of Kentucky Wildcats 1997-98 National Champions upon the occasion of their visit to the Kentucky House of Representatives so that they may be recognized for their phenomenal achievements in the 1997-98 NCAA Basketball Tournament. This stellar group of young athletes, deemed the 'Comeback Cats,' has proven by their extraordinary victories that hard earned skill combined with unfaltering determination leads to considerable successes. Head Coach Orlando "Tubby" Smith is afforded high honors as a remarkable coach and a brilliant strategist for the knowledge and guidance that he has rendered these talented young men. The 1997-98 University of Kentucky Wildcats have forever earned a place in the hearts of Kentuckians across this Commonwealth for the tenacity they have demonstrated and the national acclaim they have brought to this already distinguished basketball program. The members of the Kentucky House of Representatives are delighted to join with Representative Jesse Crenshaw in applauding these individuals and in extending to them best wishes for continued athletic success. **Legislative Citation No. 264** was adopted without objection.

Representative Crenshaw moved the adoption of the following **Legislative Citation No. 265**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Orlando "Tubby" Smith for his phenomenal success as Head Coach of the University of Kentucky Wildcat Basketball Team. Advancing his extraordinary "Comeback Cats" to the Final Four in San Antonio, Texas, this beloved leader of champions is honored for his expert coaching abilities which resulted in this marvelous team winning the 1997-98 NCAA National Championship in an exhilarating 78-69 victory over the Utah Utes. During his first year at the University of Kentucky, Orlando "Tubby" Smith has compiled an awe-inspiring 35-4 record, delighting Wildcat fans throughout the nation and adding to the winning tradition of University of Kentucky basketball. Inasmuch as said recipient has brought immense pride and honor to the Commonwealth's flagship university and to all Kentuckians, the entire membership of this distinguished body is pleased to join with Representative Jesse Crenshaw in paying tribute to this revered Wildcat coach and in wishing him continued years of prosperity. **Legislative Citation No. 265** was adopted without objection.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 11** and **SB 121** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:07 p.m.)

Orders of the Day (Continued)

A Free Conference Committee Report was filed on **SB 247**. A Free Conference Committee Report No. 2 was filed on **HB 321**. A revised Free Conference Committee Report was filed on **SB 247**.

Senate Message (Continued)

Message received on **HB 455**: The Senate has adopted the Second Free Conference Committee Report on **HB 455** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 5:10 p.m.)

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 199, SB 217,** and **SB 265** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:10 p.m.)

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 48, HB 63, HB 74,** and **HB 320** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:15 p.m.) **HB 48, HB 63, HB 74,** and **HB 320** delivered to the Senate and signed by the President. Delivered to the Governor on April 2 at 6:42 p.m.

Senate Message (Continued)

Message received on **HB 321**: The Senate has adopted the Free Conference Committee Reports on **HB 321** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 5:25 p.m.)

Orders of the Day (Continued)

SB 247 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative D. Graham moved the adoption of the following Free Conference Committee Report on **SB 247**. Agreed.

The Free Conference Committee on **SB 247** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 247** with the following changes:

Starting on page 1, after the title, by deleting the rest of the bill, and inserting in lieu thereof:

"WHEREAS, agriculture and tobacco are vital to the economies of local communities and to the economy of the Commonwealth; and

WHEREAS, the family farm is an important part of the agricultural community; and

WHEREAS, the future of the tobacco program is uncertain; and

WHEREAS, agricultural assistance and diversification will aid in the preservation of the family farm;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Agricultural Diversification and Development Council is created.

(2) The council shall consist of twelve (12) members as follows:

- ***(a) The commissioner of the Department of Agriculture;***
- ***(b) The secretary of the Economic Development Cabinet;***
- ***(c) The director of the Cooperative Extension Service;***
- ***(d) The secretary of the Finance and Administration Cabinet; and***
- ***(e) Eight (8) members to be appointed by the Governor by December 31, 1998, as follows:***
  - ***1. A representative of the banking industry with experience in loans to farm operations;***
  - ***2. Five (5) farmers who raise tobacco; and***
  - ***3. Two (2) individuals familiar with agricultural diversification and the tobacco programs.***

(3) Terms of council members shall be for four (4) years. The eight (8) members appointed by the Governor shall be for staggered terms.

(4) The council shall select one (1) of its members as chair and another member as vice chair.

(5) Members shall receive per diem of fifty dollars ($50) for council work and be reimbursed for travel and expenses.

(6) The council shall be attached administratively to the Finance and Administrative Cabinet for purposes of expenditure of funds.

(7) The Department of Agriculture shall provide support staff for the council.

(8) The council shall promulgate administrative regulations to implement the provisions of Sections 1 to 7 of this Act.

(9) The council shall be activated when funds for the purposes of Sections 1 to 7 of this Act are appropriated by the General Assembly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Agricultural Diversification and Development Fund" to which shall be credited any increase in the cigarette excise tax levied under KRS 138.140 subsequent to the effective date of this Act; gifts; bequests; endowments; grants from the United States government, its agencies and instrumentalities; any funds from the tobacco settlement agreement or related federal legislation for tobacco farmers or tobacco-dependent communities specifically appropriated to this fund by the General Assembly from the fund created in Section 3 of this Act; and funds received from any other sources, public or private. The fund shall be

administered by the Agricultural Diversification and Development Council created under Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the tobacco settlement agreement or related federal legislation. Any funds designated to the Commonwealth from the settlement agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities and health-related areas.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The moneys in the agricultural diversification and development fund under Section 2 of this Act shall be distributed to one (1) or more of the following:

(1) The state's owners of the tobacco basic quota based on the percentage of each owner's tobacco basic quota compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;

(2) The state's individuals or entities growing tobacco based on the percentage of tobacco basic quota being raised by the individual or entity, compared to the state's total tobacco basic quota as certified by the United States Department of Agriculture;

(3) The Department of Agriculture to be used for marketing, agricultural diversification, and development as provided in Section 6 of this Act;

(4) The Purchase of Agricultural Conservation Easement Corporation created in KRS 262.900 to 262.920;

(5) The University of Kentucky and Kentucky State University extension service programs and the University of Kentucky College of Agriculture to carry out the duties and responsibilities as provided in Section 7 of this Act; and

(6) Owners of tobacco quotas, tobacco growers, and tobacco-dependent communities to be determined by the Agricultural Diversification and Development Council as provided in Section 5 of this Act. These entities shall receive at least fifty percent (50%) of the funds in the form of grants or loans.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The funds distributed for grants and loans under Section 4 of this Act shall be distributed by the council as determined by administrative regulation promulgated by the council and may be distributed:

(1) To tobacco quota owners and tobacco growers to assist them in growing their tobacco crop more efficiently and profitably, using the latest technology and techniques;

(2) To tobacco quota owners and tobacco growers to assist them in diversifying their operations and developing alternative crops;

(3) To tobacco-growing communities to help them stimulate and diversify their agricultural economies; and

(4) To agricultural organizations attempting to stimulate and diversify the local agricultural economies growing tobacco.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The funds distributed to the Kentucky Department of Agriculture under Section 4 of this Act shall be used to:

(1) Assist in marketing crops and agricultural products that can provide alternative income to tobacco quota owners and tobacco growers;

(2) Promote alternative crops and enterprises that can provide an enhanced income to tobacco quota owners and tobacco growers; and

(3) Provide an infrastructure necessary to produce and market alternative crops and other agricultural operations.

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture shall use the money distributed under Section 4 of this Act to:

(1) Assist tobacco quota owners and tobacco growers to more efficiently and profitably produce their crops;

(2) Assist tobacco growers to diversify their operations; and

(3) Develop alternative agricultural options and farm-related enterprises to enhance and supplement tobacco production.

Section 8. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in

Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.".

Signed April 2, 1998: Senators Joey Pendleton, John A. "Eck" Rose, and Richard Sanders; and Representatives Drew Graham, Tommy Turner, Pete Worthington, Dottie J. Sims, and Dwight Butler.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative D. Graham moved that **SB 247**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See April 2, 1998 roll call on **SB 247** - Appendix.) **SB 247**, as amended by the Free Conference Committee Report, was passed and the title agreed to. Representative D. Graham moved that the vote by which **SB 247**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 455 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Bowling moved the adoption of the following Second Free Conference Committee Report on **HB 455**. Agreed.

The Second Free Conference Committee on **HB 455** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 455** and the following changes:

Adopt the First Free Conference Committee Report on **HB 455** (Document I.D. 984284) with the following changes:

To delete the following from page 7:

"11. The Free Conference Committee recommends that the following amendment be adopted:

On page 215, line 10, to delete "section is" and to insert in lieu thereof "sections are"; and

On page 215, between lines 10 and 11, to insert the following:

"518.070 Ticket scalping."".

Signed April 2, 1998: Senators Ernesto Scorsone, Paul Herron, Jr., David L. Williams, and Gerald Neal; and Representatives Mike Bowling, John Vincent, Jim Lovell, Gross Lindsay, Rob Wilkey, and Jeffrey Hoover.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Bowling moved that **HB 455**, as amended by the Second Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 87, Nays 1 (See April 2, 1998 roll call on **HB 455** - Appendix.) **HB 455**, as amended by the Second Free Conference Committee Report, was passed and the title agreed to. Representative Bowling moved that the vote by which **HB 455**, as amended by the Second Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Second Free Conference Committee Report on **HB 321**. Agreed.

The Second Free Conference Committee on **HB 321** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 321**, the provisions of the First Free Conference Committee Report on **HB 321** (Document I.D. 984238), and the following corrections:

A. The Part III, General Provisions, Section 37 referenced on page 165 is deleted and subsequent sections renumbered accordingly; and

B. The project titles listed in Part X, General Fund Surplus Expenditure Plan, Statewide Infrastructure Fund, Multiple Projects Pool (Priority # 86) for Fire Departments in Vicco, Hazard, Buckhorn, and Hyden referenced on page 234 shall be revised to read the City of Vicco, City of Hazard, City of Buckhorn, and City of Hyden. In addition to projects listed in the Multiple Projects Pool (Priority # 86) are the following individual projects and related amounts:

Jakes Branch Volunteer Fire Department - $2,000, Viper Volunteer Fire Department - $2,000, Troublesome Creek Volunteer Fire Department - $4,000, Buckhorn Volunteer Fire Department - $2,000, Grapevine/Chavies Volunteer Fire Department - $4,000, Lotts Creek Volunteer Fire Department - $4,000, Lost Creek Volunteer Fire Department - $4,000, Awawan Volunteer Fire Department - $2,000, Vicco/Sassafras Volunteer Fire Department - $4,000, Cornettsville Volunteer Fire Department - $2,000, Leatherwood Volunteer Fire Department - $4,000, Fisty Volunteer Fire Department - $4,000, Hazard Volunteer Fire Department - $4,000, Stinnett Volunteer Fire Department - $2,000, Thousandstix Volunteer Fire Department - $2,000, Coon Creek Volunteer Fire Department - $2,000, Hyden Volunteer Fire Department - $2,000, Wooton Volunteer Fire Department - $2,000, Cutshin Volunteer Fire Department - $2,000.

The totals and subtotals in the Report shall be adjusted by an amount of $54,000 as follows: on page 215 revise the figure $107,676,000 to the figure $107,730,000; and on page 229, revise the figure 107,676,000 to 107,730,000, and the figure 450,476,000 to 450,530,000; and

C. The Part X, General Fund Surplus Expenditure Plan, Statewide Infrastructure Fund, Priority # 106 project title referenced on page 226 shall be revised to read the Simpson County - Industrial Park; and

D. The Part X, General Fund Surplus Expenditure Plan, Statewide Infrastructure Fund, Miscellaneous Projects Pool (Priority # 144) project title referenced on page 235 as the Pine Mountain Senior Citizen Center shall be revised to read Pineville Senior Citizen Center.; and

E. The first sentence of Part IX, Special Provisions, 14e. Learning Support Services, School-Based Decision Making Councils, referenced on page 182, is revised to read as follows: Notwithstanding KRS 160.345, the parent representatives on the council may not be employees of that school or the district central office, or relatives of an employee of that school or relatives of a district central office employee, and a local board member or their spouse may not be a parent representative.

Signed April 2, 1998: Senators Benny Ray Bailey, Dan Kelly, David K. Karem, Charlie Borders, Larry Saunders, Richard L. Roeding, Joey Pendleton, Elizabeth Tori, and Fred Bradley; and Representatives Harry Moberly, Jr., Larry Clark, Jim Callahan, Woody Allen, Joe Barrows, Danny Ford, Jody Richards, Stanton L. Cave, and Gregory D. Stumbo.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 321**, as amended by the Second Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See April 2, 1998 roll call on **HB 321** - Appendix.) **HB 321**, as amended by the Second Free Conference Committee Report, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 321**, as amended by the Second Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed. The Journal will reflect that the Free Conference Committee Report No. 1 to **HB 321** is incorporated into the Free Conference Committee Report No. 2.

Senate Message (Continued)

Message received on **HJR 34**: The Senate has passed **HJR 34** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HJR 35**: The Senate has passed **HJR 35** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. Message received on **HJR 36**: The Senate has passed **HJR 36** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 6:40 p.m.)

Orders of the Day (Continued)

HJR 34, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 34** is as follows:

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 State/Executive Branch Budget Bill or the 1998-00 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 State/Executive Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 1998-2000 State/Executive Branch Budget Memorandum is as follows:

(SEE APPENDIX FOR TEXT OF EXECUTIVE BRANCH BUDGET MEMORANDUM)

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 34**. Agreed.

Representative Moberly moved that **HJR 34**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: Yeas 76, Nays 0 (See April 2, 1998 roll call on **HJR 34** - Appendix.) **HJR 34**, by way of Senate Committee Substitute, was adopted and the title agreed to. Representative Moberly moved that the vote by which **HJR 34**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 35, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 35** is as follows:

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 Legislative Branch Budget Bill or the 1998-00 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 Legislative Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 1998-2000 Legislative Branch Budget Memorandum is as follows:

(SEE APPENDIX FOR TEXT OF LEGISLATIVE BRANCH BUDGET MEMORANDUM)

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 35**. Agreed.

Representative Moberly moved that **HJR 35**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: Yeas 51, Nays 24 (See April 2, 1998 roll call on **HJR 35** - Appendix.) **HJR 35**, by way of Senate Committee Substitute, was adopted and the title agreed to. Representative Moberly moved that the vote by which **HJR 35**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 36, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 36** is as follows:

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 Judicial Branch Budget Bill or the 1998-00 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 Judicial Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 1998-2000 Judicial Branch Budget Memorandum is as follows:

(SEE APPENDIX FOR TEXT OF JUDICIAL BRANCH BUDGET MEMORANDUM)

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 36**. Agreed.

Representative Moberly moved that **HJR 36**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: Yeas 75, Nays 0 (See April 2, 1998 roll call on **HJR 36** - Appendix.) **HJR 36**, by way of Senate Committee Substitute, was adopted and the title agreed to. Representative Moberly moved that the vote by which **HJR 36**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to allow Motions, Petitions and Communications action at this time. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that she be recorded as voting "yea" on **HB 455** and **SB 247**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cox moved that his vote be changed from "yea" to "nay" on **HJR 35**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on the final passage of **SB 247**. Agreed.

Majority and Minority Free Conference Committee Reports were filed on **SB 326**.

SCR 197 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed.

Representative Stumbo moved that **SCR 197** be adopted.

SCR 197, A CONCURRENT RESOLUTION adjourning the General Assembly until April 15, 1998.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on Thursday, April 2, 1998, they do so to convene again on Wednesday, April 15, 1998, at a time to be set by motion upon adjournment.

On the roll call the vote was: Yeas 74, Nays 1 (See April 2, 1998 roll call on **SCR 197** - Appendix.) **SCR 197** was adopted.

Representative Stumbo moved that the rules be suspended to act upon **SB 326**. Agreed.

SB 326 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The following Minority Free Conference Committee Report was filed on **SB 326**:

The Free Conference Committee on **SB 326** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 326** without any further amendments.

Signed April 2, 1998: Senator Albert L. Robinson.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Clarke moved the adoption of the following Majority Free Conference Committee Report on **SB 326**. Agreed.

The Free Conference Committee has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 326**, House Floor Amendment No. 2\Title to **SB 326**, and the following changes:

On page 2, after line 2, by inserting the following:

"Section 2. During the 1998-1999 interim, the Interim Joint Committee on State Government shall review the organization, structure, and function of all cities, counties, and special districts in Kentucky and issue a report on their status along with any legislative recommendations. There shall be established a task force to study the structure, organization, and function of cities, counties, and special districts.

Section 3. The task force shall be composed of twenty-seven (27) members, chosen in the following manner:

(1) Twelve (12) members of the General Assembly, six (6) to be appointed by the Speaker of the House of Representatives, and six (6) to be appointed by the President of the Senate;

(2) Four (4) elected county officials, who shall be appointed by the Legislative Research Commission;

(3) Four (4) elected city officials, who shall be appointed by the Legislative Research Commission;

(4) Four (4) persons representing the area development districts who shall be appointed by the Legislative Research Commission;

(5) The commissioner of the Department for Local Government or the commissioner's designee; and

(6) In addition to the twelve (12) legislative members, the House and Senate co-chairs of the Interim Joint Committee on State Government shall serve as co-chairs for the task force.

The Legislative Research Commission shall appoint the members to the task force on or before August 1, 1998.

Section 4. (1) Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the task force shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

(2) The full task force shall meet at times it deems necessary. The task force may hold public hearings from time to time on

matters within its purview. Whenever appropriate, the task force may organize itself into subcommittees related to the subject matter under consideration, and they may meet at times they deem necessary.

(3) The task force shall provide a report with recommendations to the Legislative Research Commission by September 1, 1999. It is intended that the General Assembly review the report, and enact any legislation deemed necessary on the basis of the report.

(4) The nonlegislative appointments to the task force shall be as evenly distributed as possible between rural and urban areas of the Commonwealth.

Section 5. Staff services to be utilized in completing the work of the task force are estimated to cost $50,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.".

Signed April 2, 1998: Senators David E. Boswell, Paul Herron, Jr., David L. Williams, and Denny Nunnelley; and Representatives Joe Clarke, Charles Geveden, Charles Siler, Joni Jenkins, and Jim Zimmerman.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Clarke moved that **SB 326**, as amended by the Majority Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 51, Nays 22 (See April 2, 1998 roll call on **SB 326** - Appendix.) **SB 326**, as amended by the Majority Free Conference Committee Report, was passed and the title agreed to. Representative Clarke moved that the vote by which **SB 326**, as amended by the Majority Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for enrolling of bills. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 12 Noon, April 15, 1998. Agreed.

The following member filed a request to have his name withdrawn as co-sponsor of Bills under rules previously suspended: **HB 408, HB 715**, Representative Riner.

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 7 to **HB 142**. Agreed.

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 21 to **HB 455**. Agreed.

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 1 to **HB 608**. Agreed.

Representative Riner moved that the rules be suspended to withdraw Floor Amendment No. 15, Floor Amendment No. 16, Floor Amendment No. 11, Floor Amendment No. 1, Floor Amendment No. 2, and Floor Amendment No. 4, to **HB 327**. Agreed.

Representative D. Graham moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative D. Graham moved that he be recorded as voting "yea" on **HB 582**. Agreed.

Recess

Representative Stumbo moved that the House recess for Enrollment Committee Reports. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 321, HB 455, HJR 34, HJR 35, HJR 36, SB 224, SB 247**, and **SB 326** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -9:40 p.m.) **HB 321, HB 455, HJR 34, HJR 35**, and **HJR 36** delivered to the Senate and signed by the President. Delivered to the Governor on April 2, 1998 at 9:50 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 12 Noon, April 15, 1998.

The motion that the House adjourn until 12 Noon, April 15, 1998 was adopted by voice vote.

WEDNESDAY, APRIL 15, 1998

SIXTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Coleman, Hatcher, Heleringer.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of April 2, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Veto Messages

Veto message received on **HB 85**: I, Paul E. Patton, Governor of the Commonwealth of Kentucky, do hereby exercise the authority granted under Section 88 of the Kentucky State Constitution in returning **House Bill 85**, as enacted by the 1998 Regular Session of the General Assembly, to its house of origin with a veto.

I exercise this authority for the following reasons. First, **House Bill 85** infringes upon the right of individuals to make decisions which are guaranteed under the Ninth Amendment of the United States Constitution to be both free and private. Kentucky state government should not force a burdensome waiting period accompanied by state mandated propaganda on our citizens prior to any private decision, whether it be a matter related to choosing one's religious beliefs, choosing a system of education, choosing a partner in marriage, or choosing to undergo any type of medical procedure. Second, **House Bill 85** places an undue burden of cost and inconvenience upon the rural people of Kentucky who choose to exercise a right guaranteed under the United States Constitution.

Done this Seventh day of April, 1998 in Frankfort, Kentucky at 3:44 p.m.

Veto message received on **HB 499**: I, Paul E. Patton, Governor of the Commonwealth of Kentucky, do hereby exercise the authority granted under Section 88 of the Kentucky State Constitution in returning **House Bill 499**, as enacted by the 1998 Regular Session of the General Assembly, to its house of origin with a veto.

I exercise this authority for the following reasons. **House Bill 499** mandates that local boards of directors for community colleges be appointed after nomination by the Governor's Postsecondary Education Nominating Commission. I support the concept of this legislation but believe that it would too administratively burdensome at this time. With all postsecondary institutions and the Council on Postsecondary Education subject to this nominating process, it is already difficult to get the Commission together for even all of these appointments.

I hereby pledge, if this veto is sustained, to set up by executive order a separate advisory body to nominate candidates for positions on local boards of directors for community colleges. Furthermore, I will work in future sessions of the General Assembly to codify this process under a separate nominating entity for these local boards of directors.

Done in Frankfort this Eighth day of April, 1998 at 3:45 p.m.

Veto message received on **HB 321, Part IX, page 217, lines 17 through 23:** I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky Constitution, do hereby veto Part IX, page 217, lines 17 through 23, of **House Bill 321** as enacted by the 1998 Regular Session of the General Assembly.

I exercise this authority for the following reasons. The provisions identified in Part IX, Page 217, lines 17 though 23, of House Bill 321 relate to Access Permits granted by the Kentucky Transportation Cabinet, Department of Highways, and would indicate that the price of any property purchased back by the original seller shall be the price originally paid for the right-of-way and normal inflationary "uplifts." I disapprove of this provision for a variety of reasons. As a policy matter, this new language would ignore and dismiss the fact that the value of the land almost invariably would have been significantly enhanced by the new access provided by the Department of Highways. Currently that value is determined by a "before and after" appraisal which is required by federal regulations. In order to comply with these regulations, as well as to recognize the true value of the improved property, it is necessary to strike these provisions from House Bill 321. Finally, no funds are expressly provided for any refunds associated with this language, although refunds are "appropriated in the Highways appropriation unit" and would, therefore, have to be deducted from other Road Fund appropriations.

Veto message received on **HB 321, Part IX, page 214, lines 27 through Page 215, line 1:** I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky Constitution, do hereby veto Part IX, page 214, lines 27, through Page 215, line 1, of House Bill 321 as enacted by the 1998 Regular Session of the General Assembly.

I exercise this authority for the following reasons. The provisions identified in Part IX, Page 214, line 27, through Page 215, line 1, of **House Bill 321** relate to the Sleepy Hollow Golf Course and Coal Mine Museum in Harlan County and would "transfer" operational and legal responsibility to the Kentucky Department of Parks. I disapprove of this provision because it would remove responsibilities for ongoing operations from the local community and impute a statewide recurring obligation and liability to the Commonwealth. Both the Sleepy Hollow Golf Course and existing Coal Mine Museum in Benham are existing enterprises unrelated to the Department of Parks. Moreover, they are not geographically contiguous or related in any other way to the operations of the existing Kingdom Come State Park in Harlan County and would set an adverse fiscal, legal, and operational precedent regarding the obligations of the state Department of Parks. It should be recognized, and indeed emphasized, that the veto of this language concerning the "transfer" of operational and legal responsibility in no way affects the appropriations contained elsewhere in House Bill 321 for capital improvements and operating subsidies for these Harlan County enterprises.

Done this Fourteenth day of April, 1998 at 4:34 p.m.

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative G. Graham moved the adoption of the following **Legislative Citation No. 273**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Western Hills High School Girls Cross Country Team upon winning its fourth straight AA State Championship on November 8, 1997. Inasmuch as the members of this extraordinary team have demonstrated remarkable talent and perseverance in pursuit this truly noteworthy accomplishment, the members of this prestigious body are delighted to join with Representative Gippy Graham in congratulating this outstanding group of athletes and in wishing them continued success. **Legislative Citation No. 273** was adopted without objection.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Palumbo moved the adoption of the following **Legislative Citation No. 272**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the members of the University of Kentucky 1998 National Championship Cheerleading Squad for their well-deserved victory at the 1998 National College Cheerleading Championship for NCAA Division 1-A schools held in Orlando, Florida, in which they claimed their eighth national Division 1-A title. The University of Kentucky squad is the only team to win back-to-back championships twice, once in 1987 and 1988 and again in 1995 and 1996. Further, these exceptional athletes stand alone in having won four national championships in a row in Division 1-A competition. Recognized as one of the premier cheerleading programs in America, this squad of superior athletes, along with their outstanding coach, Saleem Habash, has demonstrated laudable effort and enthusiasm by their talented and outstanding performance in such competitions as well as generating vocal support and significant enthusiasm for the University's Wildcat football and basketball teams. The members of this distinguished body are delighted to join Representative Ruth Ann Palumbo in commending the members and coach of the University of Kentucky 1998 National Cheerleading Champions for their hard work and dedication to a worthy endeavor and in extending to them best wishes for continued success in the future. **Legislative Citation No. 272** was adopted without objection.

Introduction of Resolutions

HR 162, by Representative Riner: A RESOLUTION adjourning the House of Representatives in honor of the Jubilee, the 50th anniversary of the founding of Israel.

Orders of the Day

Representative Stumbo moved that **HB 85** be taken from Orders of the Day for consideration of the Governor's veto. Agreed.

Representative Stine moved that **HB 85** be placed upon its passage, the Governor's veto notwithstanding.

On the roll call the vote was: Yeas 71, Nays 24 (See April 15, 1998 roll call on **HB 85** - Appendix) The motion that **HB 85** be passed, the Governor's veto notwithstanding, was adopted. **HB 85** was passed over the Governor's veto. Representative Stine moved that the vote by which **HB 85** was passed, the Governor's veto notwithstanding, be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SCR 198**. (Time: 12:25 p.m.)

Motions, Petitions and Communications

Representative Rasche moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Rasche moved the adoption of the following **Legislative Citation No. 284**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends deepest sentiments of gratitude to Representative Freed Curd at the close of an outstanding nineteen-year tenure as Representative for Calloway and parts of Trigg Counties. This former Calloway County Outstanding Teacher of the Year has worked tirelessly on behalf of legislation designed to assure a quality education to all the youth of this Commonwealth. A staunch supporter of education reform, he also sponsored legislation dealing with teachers retirement and salary upgrades. He has always been a proponent of improving post-secondary education in the Commonwealth. The distinguished 'Gentleman from Calloway,' is hereby afforded deep appreciation for his efforts on behalf of the citizens of Kentucky's 5th District as he worked in collaboration with the members of the Kentucky General Assembly from 1980 until 1998. The members of this august body are pleased to join with Speaker Jody Richards in applauding the stellar career of Representative Freed Curd and in extending to him very best wishes for his continued success. **Legislative Citation No. 284** was adopted without objection.

Representative Collins moved the adoption of the following **Legislative Citation No. 277**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincere appreciation to Representative Donnie Newsome for the quiet attention with which he has served the citizens of Knott, Magoffin and Wolfe Counties and the members of the Kentucky General Assembly. A store owner and retired coal miner from Dema, Kentucky, Representative Newsome has served as a Representative for the Commonwealth of Kentucky for four outstanding years. During his tenure he has been a strong supporter of his community, working consistently and with conviction on behalf of Eastern Kentucky, and he leaves the Kentucky House of Representatives in hopes that his services on a local level will further benefit the region. The members of this esteemed body are pleased to join with Representative Hubert Collins in applauding efforts of Representative Donnie Newsome and in extending to him best wishes that he may prosper and succeed in all future endeavors. **Legislative Citation No. 277** was adopted without objection.

Representative Zimmerman moved the adoption of the following **Legislative Citation No. 269**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Marguerite Bray for the dedication and integrity with which she served the Kentucky General Assembly. A twenty-year House of Representatives staff member, Mrs. Bray supervised the House Gallery with a kind and conscientious manner which was deeply appreciated by all those with whom she came into contact. This extraordinary lady is the mother of six adoring children, twenty-four beloved grandchildren and thirty cherished great-grandchildren. A native of Trimble County, she is a member of the Democratic Woman's Club and former President of the club's Franklin County branch. She remains devoted to her community, a selfless neighbor and a faithful member of Frankfort's First United Methodist Church. The genuine grace and friendly wit which Marguerite Bray brought to her duties as a staff member of the Kentucky General Assembly have been sorely missed by the members of this body. The Kentucky House of Representatives is honored to join with Representative Jim Zimmerman in applauding this distinguished lady of the Commonwealth and in extending to her best wishes for her continuing health and happiness. **Legislative Citation No. 269** was adopted without objection.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 279**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby affords deep appreciation to Representative Michael Bowling upon the auspicious occasion of his retirement from the Kentucky House of Representatives. A graduate of the University of Kentucky, this distinguished gentleman has rendered seven years of exceptional service to the citizens of Bell and Leslie Counties and of this great Commonwealth. A graduate of Salmon P. Chase Law School and an accomplished attorney in Middlesboro, Kentucky, he is a member of the Bell County Industrial Association, the Middlesboro Chamber of Commerce, the Kentucky and Bell County Bar Associations and the Administrative Council of Covenant United Methodist Church. As Chairman of the Judiciary Committee and a staunch supporter of the Crime Bill, this faithful public servant has worked with great diligence and honor on behalf of his constituents and in collaboration with the Kentucky General Assembly. The members of this prestigious body are honored to join Representative Greg Stumbo in paying tribute to Representative Mike Bowling for his many years of laudable service and dedication to the Commonwealth of Kentucky and in extending to him best wishes for his continued success. **Legislative Citation No. 279** was adopted without objection.

Representative Gray moved the adoption of the following **Legislative Citation No. 276**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Representative Mark S. Brown for the fourteen years of exceptional dedication and integrity with which he has served the citizens of Meade and Hardin

Counties and this Commonwealth. A mechanical technician in Brandenburg, Kentucky, Representative Brown is an active member of the Meade County Democratic Party and the United Association of the Plumbing and Pipefitting Industry, Local 522. In the legislature, he currently serves on the House Appropriations and Revenue Committee, Natural Resources and Environment Committee, Labor and Industry Committee, Rules Committee, as well as numerous sub-committees. Known and respected as a legislator who has worked diligently to protect the environment, his efforts have earned him many notable community recognitions. His well-deserved accolades have been a result of the extraordinary dedication and hard work that this distinguished Kentucky gentleman has rendered his constituents and this General Assembly. The members of the Kentucky House of Representatives are honored to join with Representative J. R. Gray in celebrating the accomplishments of the 'Gentleman from Meade' and in extending to him heartfelt sentiments of gratitude upon the occasion of his retirement from the House of Representatives. **Legislative Citation No. 276** was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 275**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its deepest esteem to Representative Herbert "Herbie" Deskins, Jr. in honor of his years of faithful service to the citizens of this Commonwealth. A twenty-two year veteran of the Kentucky House of Representatives, this distinguished attorney, farmer and businessman from Pike County has endeavored with great honor to confront the issues which most affect his constituents, especially those dealing with agriculture, natural resources and workers' compensation. Representative Deskins is known as a defender of the environment who deeply loves the land. He has been presented with numerous honors recognizing his diligence and integrity, including the Outstanding Young Men of America Award, 1971, the WCTR Award and the Outstanding Young Democrat of the Seventh Congressional District in 1966. He is a member of the United States Army Reserves, the Kentucky and Pike County Bar Associations and the American and Kentucky Trial Lawyers Associations. In tribute to the exceptional service that this outspoken and courageous public servant has rendered the Kentucky General Assembly and the citizens of his district and state, the members of this august body are pleased to join Representative Fred Nesler in applauding Representative Herbie Deskins, Jr. and in extending to him best wishes for continued success in retirement. **Legislative Citation No. 275** was adopted without objection.

Senate Message (Continued)

Message received on **HB 85**: The Senate has voted to override **HB 85** the objections of the Governor notwithstanding, and is respectfully returning same to this Honorable Body. (Time: 1:50 p.m.)

Motions, Petitions and Communications (Continued)

Representative Moberly moved the adoption of the following **Legislative Citation No. 287**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers most sincere and ardent thanks to Representative Marshall Long for the sixteen exceptional years he has devoted to the Kentucky General Assembly. Rated the House's most effective member during the 1993-94 Session, Representative Long has sponsored much legislation of consequence during his tenure, proving himself an extraordinary leader and inspiration to his colleagues. This distinguished servant of the Commonwealth is a former captain of the United States Air Force, former Mayor of Shelbyville and a member of the Kentucky Air National Guard and the Shelby County Chamber of Commerce. In recognition of his remarkable service in all capacities, he has been honored with the Jaycees Outstanding Young Man and the Navy League Awards. Serving with distinction on the House Appropriations and Revenue Committee and recognized for his skills in budgetary matters, Representative Marshall Long has labored with great passion and integrity on behalf of his constituents and fellow citizens of Kentucky, and for this he has received well-deserved honor and acclaim. The members of the Kentucky House of Representatives are pleased to join with Representative Harry Moberly in offering most sincere sentiments of gratitude for the phenomenal efforts of Representative Long; and further, they extend best wishes for his future prosperity and success. **Legislative Citation No. 287** was adopted without objection.

Representative Lovell moved the adoption of the following **Legislative Citation No. 285**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its highest regard to Representative Drew Graham in recognition of the five extraordinary years which this devoted family man has dedicated to serving the citizens of this Commonwealth. A Fiscal Court magistrate at the time of his election in 1992, this young Representative has brought an energy and strength of conviction to his tenure that will long be admired by his peers and his constituents of Clark and Madison Counties. Over the course of his career, Representative Graham, a farmer in Winchester, Kentucky, has been very active in issues pertaining to agriculture and agribusiness. He is a member of the Kentucky Farm Bureau and the University of Kentucky Alumni Association and was Clark County Fiscal Court magistrate from 1990-1992. He will retire from the Kentucky House of Representatives as Chairman for the Agriculture and Small Business Committee and the Central Kentucky Caucus and as a member of the Tobacco Task Force, the Economic Development and Tourism Committee, the Energy Committee and the Local Government Committee. The members of this distinguished body are honored to join Representative Jim Lovell in applauding the most remarkable accomplishments of the 'Gentleman from Clark,' and in extending to him best wishes for continuing prosperity and success. **Legislative Citation No. 285** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 286**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Representative P. Joseph Clarke upon his retirement as the honorable Representative for Boyle and Washington Counties. His extraordinary career in the Kentucky House of Representatives stretches over twenty-eight years during which time he has consistently labored on behalf of his constituents. Representative Clarke is praised as this nation's longest tenured budget chairman and is second in seniority in the House Chambers. An attorney in Danville, Kentucky, he is a graduate of Notre Dame and Georgetown Universities, Secretary of the Danville-Boyle County Industrial Foundation, a member of the Kentucky and Virginia Bar Associations, a Civil Trial Advocate and a member of the Council of State Governments and the Fiscal Affairs Advisory Committee. He served with great distinction as the Speaker of the House from 1993-1994, and as Chair of the National Legislative Conference Committee on Ethics, Campaign Financing and Chair of the Southern Conference. This extraordinary gentleman, known for his honest and forthright manner, has rendered laudable service with an exemplary work ethic to the residents of his district and this General Assembly. Representative Jack Coleman, Jr. and the members of this prestigious body are pleased to join in celebration of the distinguished career of Representative Clarke and to wish him continuing prosperity and success. **Legislative Citation No. 286** was adopted without objection.

HB 85 delivered to the Secretary of State on April 15, 1998, at 2:12 p.m. with the following attached letter:

Secretary of State:

Pursuant to Section 88 of the Constitution of Kentucky, The Honorable Paul E. Patton, Governor of Kentucky having returned with his objections, House Bill 85 to the House of Representatives, and the House of Representatives having reconsidered House Bill 85 and by a majority of all members elected to the House of Representatives as determined by the yeas and nays, and the names of the members voting for and against the question being entered in the Journal, the House of Representatives PASSED House Bill 85 and;

The House has received the message of the Senate that the Senate having reconsidered House Bill 85 and by a majority of all members elected to the Senate as determined by the yeas and nays, and the names of the members voting for and against the question being entered in the Journal, the Senate PASSED House Bill 85.

Attested: Evelyn Marston, Chief Clerk of the House of Representatives.

Representative Allen moved the adoption of the following **Legislative Citation No. 283**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers most ardent sentiments of gratitude to Representative Kathy Hogancamp upon the occasion of her imminent retirement as the esteemed Representative for House District 4. A Magna Cum Laude Graduate of Murray State University, Representative Hogancamp serves as a private tutor in Paducah, Kentucky, where she is a member of the Parent and Professionals in Education, the Kentucky Family Association and the Paducah Symphony League. The distinguished 'Lady from McCracken,' has been a vital and enthusiastic participant in her community, state and nation, earning her such high accolades as the Outstanding Federal Employee with Disabilities, 1989; the 1985 Outstanding Young Women of America; and the Eagle Award, 1981. During her legislative tenure, Representative Hogancamp has illustrated extraordinary conviction and absolute rectitude in all her endeavors surrounding legislation regarding families and children. The members of this august body are pleased to join with Representative Woody Allen in applauding the stellar performance of Representative Kathy Hogancamp and in extending to her best wishes for continued success in all her endeavors. **Legislative Citation No. 283** was adopted without objection.

Representative Hoover moved the adoption of the following **Legislative Citation No. 281**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its deepest esteem to Representative Vernon Miniard, Jr. for the venerable and distinct service he has rendered the citizens of Wayne, McCreary and Pulaski Counties and the members of the Kentucky General Assembly. Representative Miniard, a distinguished attorney in Monticello, Kentucky, is a graduate of Campbellsville College and the University of Kentucky College of Law and an active member of his community, participating in such civic organizations as the Kiwanis Club and the Optimist Club and such community boards as the school board and the Wayne County Hospital Board. A man devoted to his cherished family, this distinguished member of the House who served ably on the Health and Welfare Committee will leave the General Assembly to further his law career and to be closer to his wife and children. The exemplary integrity and phenomenal stamina of Representative Miniard are hereby applauded by the members of this prestigious body as they join Representative Jeffrey Hoover in offering best wishes to Representative Miniard as he retires from the Kentucky General Assembly. **Legislative Citation No. 281** was adopted without objection.

Representative Maricle moved the adoption of the following **Legislative Citation No. 280**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby affords deepest appreciation to Representative

James F. Zimmerman upon the occasion of his imminent retirement as the 'Gentleman from Jefferson 59.' This distinguished public servant is an honorable veteran of the United States Army and the Vietnam War who has held seats on the USO of Kentucky Board, the National Committee for Employer Support of Guard and Reserve and the American Legislative Exchange Council. He has not only served with great distinction his country and state but has been a long time community leader. Serving ably as Minority Whip during the 1992 session, he was named Outstanding Legislator in 1993-1996. Known for being knowledgeable and active in banking legislation and for his dedicated work surrounding corrections issues, he has worked hard to improve conditions and upgrade salaries for corrections officers throughout Kentucky. Representative Jim Zimmerman has served as State Representative with great honor and integrity and his voice will be sorely missed by the members of this distinguished General Assembly and the citizens of this fine Commonwealth. The members of this august body are honored to join with Representative Bob Heleringer in paying tribute to the stellar career of Representative James F. Zimmerman and in extending best wishes for his continued success. **Legislative Citation No. 280** was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 278**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its highest respect and regard for Representative Richard L. Murgatroyd as he steps down from an exceptional four-year tenure as the Kentucky Representative for House District 63. The vice president and general manager of Tours Travel, a graduate of Ohio State University and a member of the United States Army ROTC, this distinguished community leader from Northern Kentucky, has served as a member of the Northern Kentucky Association for the Retarded, Chair of the American Music Scholarship Awards, President of the Bob Hope House Board and on advisory boards for the Northern Kentucky/Murray State University Communications Departments. He is a recipient of the Community Leadership Award and the Judi Gerding Volunteer of the Year Award and also served as past President of the Northern Kentucky Area Development District. Known as a very organized and methodical man who does his homework, Representative Richard Murgatroyd is highly regarded for the conscientious and honorable manner with which he has served the citizens of Kenton County and this Commonwealth. The members of the Kentucky House of Representatives are honored to join Representative Danny Ford in paying tribute to this distinguished public servant and in extending to him best wishes for his continued success. **Legislative Citation No. 278** was adopted without objection.

Representative Cave moved the adoption of the following **Legislative Citation No. 282**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its deepest sentiments of appreciation and esteem to Representative Katie Kratz Stine for the passion and integrity with which she has labored on behalf of her constituents and this great Commonwealth. Representative Stine has been an esteemed member of the House since 1995 and is highly regarded for both the conviction of her beliefs and the compassion she holds for her constituents. A graduate of the University of Cincinnati and the Northern Kentucky University, Salmon P. Chase College of Law, she is a member of the Ft. Thomas Weekday Religious Education Program Board, the Junior League of Cincinnati, the Episcopal Church Women, the Northern Kentucky Right to Life and the Kentucky Bar Association. This extraordinary public servant has been a conscientious leader, serving with great distinction as the 'Lady from Campbell 68,' and as a valued colleague whose presence will be sorely missed. The members of the 1998 General Assembly do hereby join with Representative Stan Cave in applauding Representative Katie Stine's ability to leave no stone unturned as she tenaciously and determinedly worked for the advancement of issues pertinent to her constituents and extending to her best wishes that she may prosper in all future endeavors. **Legislative Citation No. 282** was adopted without objection.

Representative Barrows moved the adoption of the following **Legislative Citation No. 271**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in honor of Evelyn Marston and extends sincerest expressions of gratitude to her for the extraordinary dedication and consummate professionalism she has brought to the task of serving as Chief Clerk of the Kentucky House of Representatives. She began her service as Assistant House Clerk during the 1976, 1978 and 1980 sessions and was sworn in as the Chief Clerk of the House on January 5, 1982, and has served with distinction through April 15, 1998. The members of this esteemed body are delighted to join Speaker Jody Richards in paying tribute to this outstanding colleague who, from the day she began working for the General Assembly, has earned the respect and appreciation of all those who have had the pleasure of working with her throughout the years; and further, in extending very best wishes as she begins her well-deserved retirement. **Legislative Citation No. 271** was adopted without objection.

Representative Stumbo moved the adoption of the following **HR 155**:

HR 155, A RESOLUTION honoring the staff and leadership of the Legislative Research Commission's Office for Computing and Information Technology.

WHEREAS, the General Assembly has moved in one Legislative Session from the era of reams of paper and voluminous bill books to the era of electronic data and sophisticated computer technology; and

WHEREAS, this transition is the result of the vision provided by the Director of the Legislative Research Commission, Don Cetrulo. The Director's vision joined the old familiar feel of the bill book with a state-of-the-art computer communication system; and

WHEREAS, Director Cetrulo worked extremely effectively with the members of the General Assembly to shepherd the computerization of the legislative chambers; and

WHEREAS, this complex transition was very challenging, and technology has evolved to such a point that only a concerted team effort made this conversion a success. Many LRC professionals participated in this transition, including the Business Office that purchased the equipment for the lowest price possible, the staff who labored long hours to wire both chambers, and finally, the staff who worked tirelessly to input the data that are the heart and soul of the system; and

WHEREAS, the pivotal group in the creation of this state-of-the-art electronic data system is the staff of the Office for Computing and Information Technology who have overcome tremendous obstacles to create and support this electronic system; and

WHEREAS, the staff searched for the optimum combination of machine speed, inter-operability, user friendliness, and cost. This group of technical professionals re-wrote and, in many cases, created innovative technical solutions and other software; and

WHEREAS, the electronic data system has been created, installed, and maintained by the LRC staff, primarily the Office for Computing and Information Technology. This effort saved the taxpayers of the Commonwealth an enormous amount of money and further ensured the capacity for growth and upgrade, assuring that the system will serve the General Assembly well into the next century; and

WHEREAS, the electronic data system installed in the Kentucky General Assembly is the finest system of its type in the nation, so much so that other states and private software companies are seeking to model their programs after Kentucky's system; and

WHEREAS, members of the House of Representatives have benefited from this tremendous team effort since the first day of this Session;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives applauds the staff and leadership of the Office for Computing and Information Technology for their outstanding efforts to create the electronic bill book system;

Section 2. The House of Representatives commends and honors Don Cetrulo, Director of the Legislative Research Commission, for his vision and leadership in guiding this innovative project through to a successful conclusion.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the LRC Office for Computing and Information Technology.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Don Cetrulo, Director of the Legislative Research Commission, Room 300, State Capitol, Frankfort KY 40601.

There being no objection **HR 155** was adopted.

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 274**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor of Bessie Drane upon the celebrated occasion of her 100th Birthday on May 3rd, 1998. Representative John Arnold, Jr. is pleased to recognize this extraordinary Kentucky lady for a life lived to the fullest and for the vitality of heart which has brought her thus far. The members of this distinguished body are delighted to extend hearty birthday greetings to Bessie Drane and to hereby adjourn this legislative day in observance of this memorable occasion. **Legislative Citation No. 274** was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 289**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor of Keene M. Hill, Jr., M.D. for the dedication and integrity with which he has served the citizens of Hart County, Kentucky, as a highly-regarded family physician at Caverna Memorial Hospital. This distinguished gentleman is admired by both his patients and colleagues for the service he has rendered with such kindness and competency for thirty-four years. The members of the Kentucky House of Representatives are honored to join with Representative Dottie Sims in offering most ardent appreciation for the service of Keene M. Hill, Jr., M.D. and in extending to him best wishes for continued success and prosperity. **Legislative Citation No. 289** was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 290**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of George B. Boeckmann, M.D. of Horse Cave, Kentucky, who provided the citizens with innumerable years of dedicated service at the Caverna Memorial Hospital. The House of Representatives joins with Representative Dottie Sims in expressing its deepest sympathy to The Boeckmann Family and friends and join them as they hold forever in their hearts the memory of his countless contributions. **Legislative Citation No. 290** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 291**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Danny Haney, Head Coach upon being chosen Coach of the Year by his peers. Under the leadership of this distinguished honoree, the 1998 Lexington Catholic Boys Varsity Basketball Team achieved a 33-3 record, reached the semi-finals of the State Basketball tournament and was ranked third in the nation. Inasmuch as this outstanding Kentuckian has demonstrated extraordinary dedication to the Lexington Catholic Basketball program and to the sport of basketball, the members of this distinguished body are pleased to join with Representative Ruth Ann Palumbo in recognizing the phenomenal achievements of Danny Haney and in extending best wishes for continued success in the future. **Legislative Citation No. 291** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 295**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Mira Ball upon her distinguished recognition at the 1998 Winner's Circle Award Luncheon hosted by the National Association of Women Business Owners, Lexington Chapter. A graduate of the University of Kentucky, this exceptional businesswoman has worked with great diligence and determination, along with her husband Don, to ensure the success of their family business, Ball Homes, Inc. Mira Ball has served as its chief administrator, building it into the financial success that it is today. She is the first woman to be elected as President of the Lexington Chamber of Commerce, the first and only woman to serve on the Kentucky Utilities Board of Directors and, in 1997, she was named the first woman Chairman of the Board of Trustees for Midway College. For her immense contributions to the business community-at-large, she has received numerous accolades, including being named recipient of the 1994 Junior Achievement Bluegrass Business Hall of Fame Award, the 1994 Woman of the Year by the Women's Center of Kentucky and the YWCA 1996 Woman of Achievement. This exceptional woman has made invaluable contributions to her community and to this Commonwealth and she stands as a sterling example of success to young businesswomen across Kentucky. The members of this prestigious body are pleased to join with Representative Ruth Ann Palumbo in applauding the accomplishments of Mira Ball and in extending to her best wishes that she may prosper in all future endeavors. **Legislative Citation No. 295** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 292**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Kentucky Educational Television as it marks 30 years of providing a unique communication resource linking all citizens of this Commonwealth. Serving an average of 600,000 Kentuckians each week, KET is the largest public television network in the United States providing specialized instructional programming to students, teachers and other audiences, a performance stage for both Kentucky's outstanding talent and for great artists the world over and a statewide townhall, making it possible for interested citizens to come together to explore issues of mutual significance. Founded by O. Leonard Press, who firmly believed that it is the responsibility of the media to serve education, KET has received countless national, regional and local awards and honors including a Ford Foundation Innovations in State Government Award and the Most Outstanding Production of the Year Award from the National Education Telecommunications Association. Inasmuch as the KET network has provided quality television programming for the citizens of Kentucky and has set the standard for excellence in broadcasting in this state, the entire membership is pleased to join with Representative Ruth Ann Palumbo in congratulating this distinguished educational institution for its many years of dedicated public service and in extending best wishes for continued success in the future. **Legislative Citation No. 292** was adopted without objection.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 294**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Philip P. Ardery as he is honored as the Founding Board Chair of Wellspring, an organization that provides housing and hope for persons with mental illness, bridging the gap between homelessness and hospitalization for persons with severe and persistent mental illness. This outstanding Bourbon County native has provided vision, leadership, constant support, hard work and good humor as Wellspring has developed into a successful venture with fifteen locations that provide a range of community-based housing and residential rehabilitation programs. As co-founder of the National Alliance on Research for Schizophrenia and Depression, a member of the Kentucky Mental Health Association, and a staunch supporter of the Alliance for the Mentally Ill, Philip Ardery has been a driving force on behalf of persons with mental illness. The entire membership is honored to join with Representative Ruth Ann Palumbo in paying tribute to this outstanding Kentuckian whose moral leadership serves as a beacon for all Kentuckians for his many years of remarkable public service and in extending best wishes for his continued success. **Legislative Citation No. 294** was adopted without objection.

Representative Riner moved the adoption of the following **HR 162**:

HR 162, A RESOLUTION adjourning the House of Representatives in honor of the Jubilee, the 50th anniversary of the founding of Israel.

WHEREAS, the State of Israel is a fulfillment of the Lord's promise to Abraham as recorded in Genesis 12:2 "I will make you a great nation; I will bless you and make your name great and you shall be a blessing."; and

WHEREAS, the State of Israel redeems the biblical promise of a homeland for the Jewish people -- a land which affirms

Jewish freedom and independence and underscores the extraordinary relationship among a people, their faith, and their land; and

WHEREAS, the land of Israel remained the focus of the Jewish faith and national aspirations during two thousand years of exile and hardship; and

WHEREAS, in 1948, the United Nations recognized the State of Israel as a free and independent nation; and

WHEREAS, since its establishment 50 years ago in 1948, Israel has rebuilt a nation, forged a new society, created an economic, cultural, academic, and military infrastructure, and emerged as a symbol of democracy and freedom; and

WHEREAS, despite the heavy costs of war, terrorism, and economic boycott, the people of Israel have never relinquished their fervent desire to live in peace with their neighbors and with all nations of the world; and

WHEREAS, Israel is a model for democratic nations, guaranteeing freedom of speech, press, assembly, and religion, and freely electing a Parliament representing a politically diverse population; and

WHEREAS, the many faiths for whom the State of Israel is holy are free to practice their religion and to worship at the holy sites; and

WHEREAS, the State of Israel has redeemed and absorbed hundreds of thousands of Jews from disparate countries and cultures, many of them survivors of the Holocaust (the most horrible crime in history) or refugees driven from Arab countries, and integrated them into a society with roots extending back thousands of years; and

WHEREAS, Israel has shared with many nations the benefits of its industrial, agricultural, and medical achievements, thereby helping them combat hunger, poverty, and underdevelopment; and

WHEREAS, the American people recognize our country's affinity for Israel and regard her as a stalwart ally and strategic asset; and

WHEREAS, Genesis 12:3 records the Lord's promise to those who stand with His people: "I will bless those who bless you and I will curse him who curses you; and in you all the families of the earth shall be blessed.";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is honored to salute Israel's historic achievements on her 50th Jubilee anniversary, supports her search for freedom and peace, and joins her in celebration.

Section 2. When the House of Representatives adjourns this day, April 15, 1998, it does so in honor of the State of Israel's 50th Jubilee anniversary.

There being no objection **HR 162** was adopted.

Representative Thomas moved the adoption of the following **Legislative Citation No. 293**. Agreed.

The House of Representatives of the Commonwealth of Kentucky honors and celebrates Senator Nicholas Kafoglis in honor of the many extraordinary years he has dedicated to the Kentucky General Assembly as a four-year veteran of the House of Representatives and, currently, as an eleven-year member of the Kentucky Senate. The citizens of Senate District 32 and this fine Commonwealth do this day applaud the accomplishments of this devoted public servant as he retires from the Kentucky Legislature. A physician in the community of Bowling Green, Kentucky, Senator Kafoglis is a graduate of Yale University and the University of Pennsylvania, a member of the American College of Obstetrics and Gynecology, the Warren County Medical Society and of both the Warren County and the Russellville-Logan County Chambers of Commerce. As Democratic Caucus Chairman, Senator Nick Kafoglis has diligently worked to preserve party unity. He is admired for the integrity and tireless energy with which he has served his constituents and this General Assembly. The members of the Kentucky House of Representatives are indeed honored to join with Speaker Jody Richards and Representative Roger Thomas in recognizing the stellar accomplishments of Senator Nick Kafoglis and in extending to him best wishes for a prosperous and fulfilling retirement. **Legislative Citation No. 293** was adopted without objection.

Representative Hogancamp moved the adoption of the following **Legislative Citation No. 288**. Agreed.

To All to Whom These Presents Shall Come, Greetings: Know Ye, That The Volunteers of Martha's Vineyard having been given Legislative Recognition for honorable service as outstanding volunteers who have been vital supporters and faithful workers donating innumerable hours of service to all the day-to-day operations of Martha's Vineyard, a program founded and directed by Martha Bell, designed to feed and care for anyone who has a need and whose special focus is delivering meals to homebound elderly persons who have limited financial resources and desperate needs, on Motion of Representative Kathy Hogancamp are hereby deemed by this honorable body worthy of its special acknowledgments and are further celebrated for the generosity and commitment of those personal offerings that make a positive difference in the lives of others. **Legislative Citation No. 288** was adopted without objection.

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed Representative G. Graham moved the adoption of the following **Legislative Citation No. 270**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Fred Clark devoted father of Michael Shaun; adored brother of Arnold, Stanley, Paul, Bruce and Jimmy; cherished grandfather of a granddaughter and a grandson; and loving husband of Lois Clark, a long-time employee of the Legislative Research Commission House Bill Room. This exceptional Franklin County native was a carpenter and former employee of the Kentucky Department of Finance. He was an honorable World War II Marine Corps veteran and member of the American Legion, Post 7 and VFW, Post 4075. The members of this august body are honored to join with Representative Gippy Graham in offering deepest sympathy and solace to all those who share in the loss of this distinguished gentleman of the Commonwealth and in adjourning this legislative day in his memory. **Legislative Citation No. 270** was adopted without objection.

Representative Moberly moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Moberly moved that he be recorded as voting "nay" on **HB 263** and **HJR 35**. Agreed. Representative Moberly moved that he be recorded as voting "yea" on **HB 632, HB 121, HB 380, HB 587, HB 127, HB 542, HB 493, HB 457, HCR 8, HCR 12, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 29, HCR 30, HCR 41, SB 20**, and **SB 169**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gray moved that he be recorded as voting "nay" to override the veto on **HB 85**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Marcotte moved that he be recorded as voting "yea" on **HB 65**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Walton moved that he be recorded as voting "yea" on **HB 648**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Horlander moved that he be recorded as voting "nay" on **SB 226, SB 217, SB 199**, and **SB 53**. Agreed. Representative Horlander moved that he be recorded as voting "yea" on **HB 49, HB 52, HB 65, HB 90, HB 121, HB 127, HB 132, HB 160, HB 161, HB 187, HB 200, HB 229, HB 230, HB 266, HB 280, HB 282, HB 285, HB 315, HB 317, HB 318, HB 330, HB 337, HB 377, HB 380; HB 418, HB 423, HB 438, HB 460, HB 475, HB 495, HB 496, HB 510, HB 511, HB 519, HB 532, HB 539, HB 544, HB 550, HB 551, HB 554, HB 560, HB 565, HB 582, HB 583, HB 608, HB 612, HB 617, HB 629, HB 636, HB 641, HB 649, HB 655, HB 670, HB 671, HB 673, HB 675, HB 689, HB 703, HB 704, HB 727, HB 736, HB 739, HB 740, HB 756, HB 785, HB 786, HB 815, HB 864, HB 53, HB 226, HB 272, HB 273, HB 393, HB 468, HB 536, HB 810, HB 900, HB 321, HB 320, HB 63, HB 48, SB 11, SB 33, SB 177, SB 186, SB 227, SB 247, SB 263, SB 265, SB 303, SB 326, SB 374, SB 121, SCR 197, SCR 126, HCR 14, HR 157, HCR 11, HJR 34, HJR 35, HJR 36** and **HR 154**. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **SCR 198**:

SCR 198, A CONCURRENT RESOLUTION adjourning the 1998 Regular Session of the General Assembly sine die.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on April 15, 1998, they do adjourn sine die.

There being no objection **SCR 198** was adopted.

The following member filed a request to have her name added as co-sponsors to Bills under rules previously suspended: **HB 170, HB 198, HB 199, HB 206, HB 280,** and **HB 410**, Representative Palumbo.

Representative Stumbo moved that the reading of the Journal of April 15, 1998, be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the reading of the Journal of the 1998 Regular Session of the General Assembly be dispensed with and the same approved. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn sine die until January 5, 1999 unless called into Extraordinary Session by the Governor.

On the roll call the vote was **Yeas 78**--R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, J. Clarke, Colter, Cox, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman.

Nays 3--Crall, Hoover, Nunn.

The motion to adjourn sine die was adopted.